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REPORTS OF COMMITTEES

OF THE

SENATE OF THE UNITED STATES

FOR THE

THIRD SESSION OF THE FORTY-SECOND CONGRESS.

1872-'73.

AND SPECIAL SESSION.

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TO THE

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 458.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. MORRILL, of Maine, submitted the following

REPORT:

[To accompany bill S. 1624.]

This is an application by Joseph A. Chambers, father of John W. Chambers, late a private in the Thirty-second Regiment Maine Volunteers, for back pay and bounty due his said son. The evidence shows, that said soldier enlisted February 25, 1864, for three years, and that he died at Augusta, Maine, April 21, 1864, of diphtheria and typhoid fever, contracted in the service; that at the time of his enlistment and death he was a minor, and that he left neither widow nor child, never having been married; that he never received any bounty or back pay from the United States, and that said applicant was the father of said soldier. It appears that applicant, as father of deceased, received a bounty of $300 from the State of Maine by act of the legislature of that State February 17, 1871.

Believing from the evidence that applicant is entitled to the bounty and back pay due his said son, the committee report the accompanying bill, and recommend its passage.

O

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 459.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 1619.]

The Committee on Pensions, to whom was referred the petition of Benjamin F. Berkley, having had the same under consideration, report:

That the claim of the petitioner was rejected at the Pension-Office under section 6 of the act of July 4, 1864, the War Department not affording satisfactory evidence of the disability alleged. The trouble arose from a mistake made by the surgeon in stating the nature of the disease on account of which the petitioner was discharged from the service, whereby it was made to appear that the petitioner was discharged by reason of disease other than actually existed, and that another member of his company was discharged by reason of the disease contracted by the petitioner. Of this there is abundant evidence, but under existing laws it is of no avail to the petitioner, such length of time having elapsed as to bar his claim under the general pension-laws. His only remedy is by special act of Congress, and the evidence is conclusive that he contracted the disease with which he has been and is now afflicted in the service and in the strict and faithful performance of his duty. The petitioner is now almost totally blind as the result of said disease. The committee, therefore, recommend the passage of the accompanying bill.

O

42D CONGRESS, 3d Session. | SENATE. | REPORT No. 460.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 1444.]

The Committee on Pensions, to whom was referred the bill (H. R. No. 1444) granting a pension to Susan Davis, have had the same under consideration, and submit the following report:

It appears from the papers in this case that Susan Davis is the mother of William W. Davis, deceased, late a private Company E, One hundred and third Regiment Pennsylvania Infantry Volunteers, who died in th service November 1, 1864, she being a widow at the date of his death; that she applied for and obtained a pension of $8 per month, granted July 28, 1871, to be computed from the date of her son's death down to the 17th of August, 1866, at which date she was remarried to David M. Davis, who only lived with her about one month, and proved unable physically and pecuniarily to support her. He was for several years an invalid, and died August, 1871, the month next after this pension certificate issued.

Petitioner is represented to be old and poor, having no property except house-furniture, not exceeding in value $300.

The committee recommend the passage of the bill.

O

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 461.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 2138.]

The Committee on Pensions, to whom was referred the bill (H. R. No. 2138) granting a pension to Zenas Bradley, have had the same under consideration, and submit the following report:

The papers in the case show that petitioner, Zenas Bradley, of the town of Allen, in the county of Alleghany, State of New York, entered the service as a private in Company F, One hundred and fourth Regiment New York Volunteers, and was honorably discharged by reason of disability, resulting from sunstroke and a fall soon afterward near Catlett's Station, Virginia. That petitioner again enlisted, after partial recovery, in Company A, Veteran Reserve Corps, Sixteenth Regiment Volunteers, and was discharged November, 1865. That he applied for and obtained a furlough to visit his family while his regiment was at Harrisburgh, Pennsylvania, and on his return to the regiment on the night of the 4th of May, 1865, and before his furlough had expired he received an injury in the right leg by the fall of a railroad-bridge at or near Painted Post, Steuben County, New York, on the Erie Railroad. It appears that he has been lame ever since he returned home. His family physician testifies that he has been treating him for the lameness in his leg, and for a former injury in his side, received during his first term of service, and that his leg, from the knee down, has perished away to a considerable extent, and that the disability is permanent.

The Commissioner rejected the application because the petitioner was on furlough when he received the injury.

The proof is full and clear, and the committee recommend the passage of the bill, with amendments inserted.

O

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 462.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. VICKERS, from the Committee on Commerce, submitted the following

REPORT:

A majority of the Committee on Commerce, to whom was referred the resolution of the Senate to inquire into the expediency of regulating by congressional legislation the rates of freight on railroads having continuous lines running into or through two or more States, and to report by bill or otherwise, beg leave to report:

That they have not deemed it necessary at this time to thoroughly consider the constitutional question involved in the resolution, but have confined their deliberations more to the subject of the expediency of reporting a bill regulating freights on continuous lines of railroad through two or more States.

The committee have not the necessary information to enable them to report a bill if they deemed it proper to do so. If the committee were prepared to report favorably, which they are not, they would require many facts which they do not now possess, such as the cost of the different lines or sections of roads, the character of the commodities transported, and the rates of freight charged, the amount of business, the gross receipts and cost of operating the roads, a schedule of local and through freights, time-tables, &c.

The subject is one of great interest and magnitude, and somewhat novel, and this committee are not prepared to recommend that any bill should be reported to the Senate at this session. They therefore pray to be discharged from the further consideration of the subject.

A minority of the committee reports against the constitutionality and expediency of the measure; all of which is respectfully submitted.

VIEWS OF THE MINORITY.

A minority of the Committee on Commerce, to whom was referred a resolution directing them to inquire into the expediency of regulating by congressional legislation the rates of freight on railroads having continuous lines running into or through two or more States, and that they report by bill or otherwise, begs leave to report:

That the question submitted to the consideration of the committee is of immense magnitude and involves a construction of the Constitution of the United States, in relation to the respective powers of the States and

of the United States; a subject of such a delicate and important character should be deliberately and gravely considered, as well as carefully and thoroughly examined.

There are several general expressions used in the Constitution from which vast powers are by some inferred, such as in the preamble: "We, the people of the United States, in order to form a more perfect union, establish justice," &c.; and in the body of it, "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States;" "to regulate commerce with foreign nations and among the several States, and with the Indian tribes."

The power to control and regulate railroads, and to prescribe the prices to be charged by them for freights, where those roads are continuous and pass through more than one State, it is assumed, is claimed under the provision quoted from the Constitution of the United States, "to regulate commerce with foreign nations and among the several States, and with the Indian tribes." This, therefore, should be the more immediate subject of consideration; but as the true interpretation to be given to those words depends upon the nature and powers of the two governments, Federal and State, it may be necessary to examine into some of the other general expressions quoted, in order to arrive at the intention of the framers of the Constitution, the objects to be accomplished, and the character and extent of the powers designed to be conferred.

It will be conceded that the Articles of Confederation were defective, being a league or confederation of States for special purposes, significantly expressed in the third article, as follows:

> The said States hereby severally enter into a firm league of friendship with each other for their common defense, the security of their liberties, and their mutual and general welfare.

It may here be remarked that when the States appointed delegates to meet in convention to amend the Articles of Confederation, it was not to form a new Constitution, but to revise the existing one, and of reporting amendments. The Congress of the Confederation in February, 1787, recommended this course to the States, "for the sole and express purpose of revising the articles of Confederation, and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress and confirmed by the States, render the Federal Constitution adequate to the exigencies of government and the preservation of the Union." It will be observed that the exigencies of Government and the preservation of the Union were the objects sought to be accomplished, and not an abridgment of the reserved and sovereign rights of the States in reference to their internal and domestic order and institutions. The legislature of New York resolved, "That experience has demonstrated the Confederation to be defective in several essential points, particularly in not vesting the Federal Government either with a power of providing revenue for itself or with ascertained and productive funds, secured by a sanction so solemn and general as would inspire the fullest confidence in them, and make them a substantial basis of credit."

Virginia, when appointing her delegates, resolved that they were to join with other delegations in Philadelphia "in devising and discussing all such alterations and further provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the Union." Pennsylvania resolved to appoint delegates "to meet such deputies as may be appointed and authorized by the other States, to assemble in

the said convention and join with them in devising, deliberating on, and discussing all such alterations and further provisions as may be necessary to render the Federal Constitution fully adequate to the exigencies of the Union." The State of Delaware used similar language. Georgia adopted the same. The State of Maryland used the following language: "For the purpose of revising the Federal system, and to join with them in considering such alterations and further provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the Union."

It will be seen that the States in clothing their delegations with authority, when assembled in convention at Philadelphia, looked to two prominent subjects—revenue and union. It was not the purpose of any State to diminish its own power, or to enlarge that of the Federal Constitution, except in such few and essential provisions as should provide for the preservation of the Union and the exigencies of the Government arising out of the want of power to raise revenue. If the Confederate constitution had possessed the latter power no convention would have been held; there seemed to be a necessity to strengthen the Government in relation to its external affairs—to clothe it, in relation to foreign powers, with a degree of nationality and strength which would give it a prestige and status among the nations of the world. When the convention met, they deemed it advisable to amend, by constructing an entire instrument, in the form of the present Constitution, as an embodiment of the alterations and amendments of the then existing constitution, as a revision of the Federal system to make it adequate to the "exigencies of the Union." The preservation of the Union was the leading and prominent object, and their efforts were designed to be in conformity to the instructions and sentiments of the States that invested them with authority.

Their obvious and essential purpose and duty were, to form a federal government of enumerated powers, to enumerate and define them as distinctly and sensibly as the English language could express. By forming a constitution of limited and specific powers, carving out and separating them from the general mass of powers in the State governments, they would avoid collisions and conflict of power between the respective governments. For instance, Congress should have power to borrow money on the credit of the United States, to declare war, grant letters of marque and reprisal, raise and support armies, coin money, regulate the value thereof and of foreign coin, lay and collect taxes, imposts, and excises, provide and maintain a navy, &c. Then follows a negation or denial of the right to exercise certain powers. "No bill of attainder or *ex post facto* law shall be passed; no tax or duty shall be laid on articles exported from any State; no title of nobility shall be granted; no money shall be drawn from the Treasury, but in consequence of appropriations made by law," &c. Then follows a negative, or prohibition, upon the States, such as, "no State shall enter into any treaty, alliance, or confederation, grant letters of marque or reprisal, coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts, pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts," &c.

It will be seen from these partial recitals, which are similar to others in their character, that the primary object was to establish a federal government of limited and specific powers, that the language used was appropriate, and that to prevent any conflict of authority certain enumerated and specific powers were denied to the States. The specifications, in both instances, were as definite and plain as language could

make them. It was evident that the great mass of powers not delegated were retained by the States, so intended by the convention, and, as they believed, sufficiently guarded; but so jealous were the people and the States of their reserved rights, and to guard them, if possible, with greater security, in two years from the adoption of the Constitution they demanded amendments, and secured in that period ten amendments. The ninth was, "The *enumeration* in the Constitution of certain rights shall not be construed to deny or disparage others *retained* by the people." The tenth reads, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are *reserved* to the States respectively, or to the people." In these amendments, made so soon after the adoption of the Constitution, the idea of enumeration of rights is preserved, and the Constitution is contemplated as one of certain enumerated powers; the *people*, used synonymously with *States*, would not be satisfied unless an amendment was adopted declaratory of the nature and character of the Federal Government and of the rights of the States. No one at that day ventured to claim any other powers for the Federal Government than those specially granted, and the general terms used at the end of a partial detail of specific powers "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof," were not considered as vesting any other than those expressly granted. The "other powers" referred to are those subsequently given in the Constitution to Congress, the President, and the judiciary, and refer to specific grants. The Constitution deals with principles and powers; it provides no details of measures to carry them into execution, but depends upon legislation and laws to give them effect. The power to make the necessary laws to execute the provisions of the Constitution is necessarily involved in the constitutional provision; but the framers of that instrument designed to make it explicit, and hence the words which are quoted, thus affording another evidence of their intention to exhibit it as containing express and definite powers.

That I am not mistaken in my opinion of the character of the Constitution and its functions I refer to the forty-fifth number of the Federalist, written by Mr. Madison, one of the framers of it; he assisted in draughting that instrument, engaged in the discussion and adoption of it. No man knew better its nature, limitations, and objects; he desired its ratification, and wrote many articles for the public press to induce the people of the States to ratify it. These papers, with others written by Mr. Hamilton and Mr. Jay, were afterward collected, numbered, and put into book-form and entitled the Federalist. In the number referred to Mr. Madison said:

> The powers delegated by the proposed constitution to the Federal Government, are *few* and *defined;* those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on *external* objects, as war, peace, negotiation, and *foreign commerce*, with which last the powers of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, *improvement*, and prosperity of the State.

It will be noted, first, that foreign commerce is among the prominent and leading objects of the Constitution; over this the Government has exclusive control, so far as its regulation is involved. It was found impracticable for each State to regulate commerce with foreign nations, as there would probably be as many different systems as there were

States; besides it would deprive the Government of one of its most essential features of nationality, and throw upon the States the onus of settling the difficulties growing out of those relations, or of involving the General Government in wars for their defense. The necessity of conferring the power of regulating commerce with foreign nations was imperative and overpowering from the very nature of the subject, for if left to the States peace could not be preserved, and invidious distinctions, favoring particular nations, certain articles of trade and exchange, and particular ports, would produce internal dissension and discord among the States, resulting in probable disunion, or the exercise of military power by the Federal Government, which would lead ultimately to the same result. It was wisely provided that all "duties, imposts, and excises shall be uniform throughout the United States," thus avoiding an inevitable difficulty and cause of offense among the States if the power had been left to them.

It will be noticed in Mr. Madison's remarks in the Federalist that he makes no allusion to commerce among the States. That did not constitute one of the controlling elements of the power in the sense to regulate commerce between the States. The commerce which the convention intended to provide for was not internal commerce or commerce between the States; and hence the ninth section of the first article of the Constitution, which declares that "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another."

Commerce, by means of navigation, was the thing to be provided for. It occupied the mind of the convention. The restriction above quoted shows evidently that domestic commerce was not to be placed on the same footing, nor be subject to the same regulations as foreign commerce. No duties were to be paid by the vessels of one State entering the ports of another, nor were they to be subject to the usual or ordinary regulations imposed upon foreign intercourse or trade. The two kinds of commerce were considered separate and distinct, and not to be subject to the same regulations. The controlling idea of navigation or commerce, through its means, was kept in view. Vessels, as vehicles of commerce, are spoken of, and not any other means of conducting it. The regulations and restrictions refer mainly, and almost exclusively, to commerce by water. Ports are mentioned—not cities, towns, stations, depots, but ports—used in connection with vessels, showing conclusively that this view of the subject is the one intended to be taken by the constitutional convention.

Daniel Webster, in a speech made in Boston, October, 1835, in speaking of the character of the Federal Government, said:

> But it is still a limited or restrained, a *severely* guarded Government. It exists under a written Constitution, and all that human wisdom can do, is done to define its powers and prevent their abuse.

In the same speech he said:

> The Constitution assigned to the General Government the power of war and peace; the power of making treaties, and that other important, and, as it has turned out, absolutely indispensable power, the regulation of commerce; Government has attempted to perform *all these duties*. It has exercised the power of regulating commerce. (See Mr. Webster's Works, vol. i, 329.)

Mr. Webster speaks of the Government as one of limited power, and severely guarded; he looked upon it as one of enumerated powers, to be restrained and guarded against the exercise of functions not granted to it. He concluded that it had sought to perform all its duties in reference to commerce, and had exercised its power. No one knew better

than Mr. Webster the import of terms used in reference to an exposition of the Constitution, and he treated the subject as consummated—that the Government had executed the Constitution in respect to commerce. He did not even remotely allude to any power to interfere with any internal intercourse or commerce between the States to be exerted by the General Government. He knew too well the distinction between domestic and foreign commerce, and the genius of the two systems of government, to claim a power, similar in its nature and extent to that of regulating foreign commerce, to be applied to intercourse and trade between the States.

The Constitution does not confer the right of intercourse or commerce between the States; that right exists independent of the Constitution; it is founded upon necessity, usage, practice, comity, and reserved right; if it were dependent upon the Constitution or Federal legislation it might be limited, burdened, and destroyed. The power to regulate commerce among the States was intended to be a preventive and conciliating power, and as such is congenial with the relation they sustain to each other and with the preservation of the Union. The Supreme Court, in 14 Howard's Reports, 574, in Veazie and others *vs.* Moor, declared that "the Constitution was designed to establish a perfect equality among the several States as to commercial rights, and prevent unjust and invidious distinctions, which local jealousies or local and partial interests might be disposed to introduce and maintain." The part of the Constitution already cited, "that no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another," and that "duties, imposts, and excises shall be uniform throughout the United States," have produced in respect to commerce what the Supreme Court calls a "perfect equality among the several States," and the remainder of the power is to prevent "unjust and invidious distinctions, which local jealousies or local and partial interests might be disposed to introduce and maintain." The quotation from Mr. Madison's 45th number of the Federalist says:

> The powers reserved to the several States will extend to all the objects which in the ordinary course of affairs concern the lives, liberties, and properties of the people; and the internal order, *improvement*, and prosperity of the State.

These are some of the powers reserved to the States; they have the sole power of improvement; they only can make and build railroads and canals within their respective limits; to them is exclusively intrusted their "*improvement* and prosperity." The question submitted to the committee is the "expediency of regulating by congressional legislation the rates of freight on railroads having continuous lines running through two or more States."

It cannot be presumed that any State would make or authorize its citizens to construct railroads if, when made, another power should assume the right to regulate the prices of freight over the same; the right to fix the value or charges for freight, includes the right to prescribe the charges upon passengers. The exercise of this right being discretionary in the government that uses it, it may arrange prices so low as to destroy all advantages of the works, by arresting their operations, because not affording a remuneration to the stockholders; the same result might be virtually attained by a high or exorbitant rate of charges which would debar the people from using them. Besides, some roads cost much more than others, probably twice as much, and a uniform rate would prove unequal and unjust, whether high or low. It must be obvious that Congress could not possess the personal knowledge necesary to adjust matters of so much importance and difficulty; the

Representatives and Senators from Massachusetts could not fix prices for Missouri, Illinois, and Kansas, and *vice versa*. Nor could the power be legally vested in a commission, which would experience the same difficulties. The subject is one that Congress could not justly or properly regulate if it had the power, neither could it delegate to others the performance of duties which they would be equally incompetent to execute. These reasons apply to the expediency of the exercise of a power which is assumed to exist by the resolution. But I do not believe that any such power exists, or can be inferred from any other. The form of the proposition is, "railroads having continuous lines running into or through two or more States," but this cannot enlarge the constitutional power. A railroad in a State is built under a charter from that State. The State has no jurisdiction beyond its own boundaries, and bestows no authority beyond them. A charter is a contract between the State and the corporators. The former, by virtue of its eminent domain, authorizes the taking of private property for such a (*quasi*) public use. The powers of the corporation are expressly defined; and they are granted privileges, on the payment of a bonus or tax, or permitted to construct the work and charge its tolls, prescribed by the charter or committed to their discretion. These terms constitute a contract, which the State cannot evade or alter without an express reservation in the charter; nor can the company change or annul it after its acceptance; it stands as a valid contract between the parties.

In Sharswood's Blackstone, vol. 1, 469, it is laid down that "private corporations include religious, literary, charitable, manufacturing, insuring, or money-lending associations, as well as railway, canal, bridge, and turnpike companies. Charters granted by the legislatures of the States to all private corporations are considered as executed contracts within the protection of Article 1, section 10, of the Constitution of the United States, which declares that "No State shall pass any law impairing the obligation of contracts." The Supreme Court of the United States have repeatedly declared that the "charter of a private corporation is a contract, the obligation of which cannot be impaired by a State legislature." (See Dartmouth College *vs.* Woodward, 4 Wheaton; Baltimore *vs.* Connellsville and Southern Pennsylvania Railroad Company, 13 Pitts. L. J., 576; 13 Amer. Law Register, 750; and Providence Bank *vs.* Billings, 4 Pet., 514; State Bank of Ohio *vs.* Kroop, 16 How., 369; Dodge *vs.* Woolsey, 18 How., 331; The Bingham Bridge, 3 Wall., 51, &c.

In the Dartmouth College case, the Supreme Court said:

> This court, then, does not admit the doctrine that a legislature can repeal statutes creating private corporations. If it cannot repeal them altogether, of course it cannot repeal any part of them, or impair them, or essentially alter them, without the consent of the corporators. A grant of corporate powers and privileges is as much a contract as a grant of land.

The Federal Government cannot incorporate a railroad company to construct a road in or through any State without the consent of the State, because it has no eminent domain; the right to appropriate private property to public uses, as lands, &c., belongs exclusively to the States, and constitutes one of the noblest attributes of their sovereignty. In the case of Pollard's Lessee *vs.* Hagan, 3 How., 212, the Supreme Court decided that "upon the admission of Alabama into the Union, the right of eminent domain which had been temporarily held by the United States passed to the State. Nothing remained in the United States but the public lands; that the United States had no power to grant land in Alabama which was below usual high water mark at the time that State was admitted into the Union."

In 6 McLean's R., 532—The United States *vs.* The Railroad Bridge Company—the court decided that "the proprietorship of land in a State by the General Government cannot, it would seem, enlarge its sovereignty or restrict the sovereignty of the State. This sovereignty extends to the State limits over the territory of a State, subject only to the proprietary right of the lands owned by the Federal Government, and the right to dispose of such lands and protect them under such regulations as it may deem proper." In the same case, the court declared that a State had a right to construct easements, such as turnpikes, railroads, &c., through the public lands lying within a State, in the same manner and to the same extent as over lands owned by individuals; that "the right of eminent domain belongs to State sovereignty, and it is exercised free from the restraints of the Federal Constitution." The court took the following positions, which they said they believed to be irrefragable: First, that the right of eminent domain is in the State, and secondly, that the exercise of this right by a State is nowhere inhibited, expressly or impliedly, in the Federal Constitution, or in the powers over the public lands by that instrument, in Congress. In the eighth section of the first article of the Constitution, which enumerates most of the powers conferred, it is stated that Congress shall have power to "exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places *purchased* by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." It is apparent that the United States, when it purchases lands in a State without obtaining the consent of the State, holds it merely as proprietor, like individuals do; they hold it subject to taxation, and to the sovereignty and jurisdiction of the State, subject to have easements or roads made through it; also subject to the civil and criminal law of the State, and a suit or prosecution, and the service of process, are the same in reference to persons residing upon such lands as are the citizens of the State residing on their own lands. The court, in 6 McLean, 532, in considering this point, said: "It is a power which belongs to the State, and the exercise of which is essential to the prosperity and advancement of the country." State sovereignty extends to the middle of navigable streams, which divide States from each other, or to the channel on both sides where the stream is within the limits of a State. In Pollard's Lessee *vs.* Hogan, 3 How., 212, the Supreme Court declared that "the shores of navigable waters, and the soils under them, were not granted by the Constitution to the United States, but were reserved to the States respectively; and the new States have the same rights, sovereignty, and jurisdiction over this subject as the original States. The United States never had any municipal sovereignty, jurisdiction, or right of soil in and to the territory of which Alabama or any of the new States were formed, except for temporary purposes, and to execute the trusts created by the acts of the Virginia and Georgia legislatures and the deeds of cession executed by them to the United States, and the trust created by the treaty of the 30th April, 1803, with the French republic, ceding Louisiana."

It follows, as a necessary corollary, that eminent domain in the United States is contrary to the structure and genius of our Government, and can only be held in certain cases, as in the District of Columbia, and in forts and arsenals in the States, where the title is acquired by consent of the States in which they lie, and in cases of

trust where public lands are ceded, out of which States are to be formed; it would be incongruous for a government of specific and limited powers to possess the right of eminent domain, except in the cases mentioned, and which grow out of the subjects of cession and grants. When lands are purchased by the United States, with the express consent of the legislature of a State, by that act of the State the United States not only becomes the owner but has jurisdiction of the same, and the land cannot be taxed or impaired by the State for any purpose. But until the State consents to the purchase, the title to forts, arsenals, and light-houses is held subject to State legislation and jurisdiction. No State has ever refused to concede the jurisdiction when asked, showing the respect and comity due from one government to another.

In the first article of the Constitution power is given to the Government "to *establish* post-offices and post-roads." The term establish would seem to be a broader and stronger one than that to *regulate* commerce; but the practice and usage of the Government since its foundation have given an interpretation to the former which limits it to the designation of roads over which the mail is to be conveyed; it is the power to adopt State roads, turnpikes, or other roads, or name them as mail-routes; the word "established" has never been supposed to confer power upon the Government to construct or make roads through the States for postal purposes. So the term to "regulate commerce" has never been interpreted to mean that the Government had the right to construct ships or other instruments to carry on commerce—not the power to create, but to regulate; that is, to prescribe rules for its conduct, and regulations to produce efficiency and uniformity. In accordance with the provisions of the Constitution, Congress cannot construct a bridge over a navigable water under the power to regulate commerce, or to establish post-roads; the power to do these is an attribute of sovereignty and eminent domain, possessed by the States; the power of Congress will authorize it to pronounce a bridge lawful or unlawful over navigable waters, because navigation and exchange of commodities would be obstructed, if such streams were allowed to be dammed or bridged in a manner that would prevent licensed vessels from passing with articles of trade; while the soil is in the State, and the use of the waters over it, the United States, under the power to regulate commerce, have a right to regulate the height or width of draws of bridges, so that the rights of the people to use the waters of the river, by their vessels engaged in commerce, is clear and undisputed. In the case of United States *vs.* The Railroad Bridge Company, in 6 McLane's R., 524, before cited, Judge McLane decided that "the power to establish post-roads has generally been considered as *exhausted*, in the designation of roads over which the mails are to be transported; and the right to regulate commerce has been *exhausted*, upon the high seas and upon our rivers and lakes, and that if these limitations are to be departed from, there can be no others, *except the discretion of Congress.*" These are solemn and momentous words; the court say, extend these powers over roads and commerce, beyond the limitations which they state, and you leave to the will and discretion of Congress whatever power they may choose to exert. If the right to affix prices for the carriage of freights and passengers be conceded, what is to prevent the exercise of the power to regulate the speed of railroad-trains, the quantity of freight, the number of passengers, the character of the locomotives and cars, and other matters of detail, which belong exclusively to the chartered companies. The soil on which railroads are built was under the

exclusive jurisdiction of the States; the United States had no interest in it, no title to a foot of it, could acquire none with jurisdiction, except conferred by the States; the easements, or roads were made for the convenience of the people, to promote their traffic, trade, and travel, in modes and by instrumentalities which were not discovered or known at the time the Constitution was formed; the power to regulate or interfere with such means and agencies never was conceived at that time; the power to regulate commerce with foreign nations does not embrace any such power as to regulate the prices of freights between American and foreign ports. While it is admitted that the power to regulate foreign commerce is infinitely larger than that to interpose with domestic trade and intercourse, it would in the former case be destructive of commerce to allow Congress to fix prices of freights and passengers; if prices of freights and passengers can be fixed or regulated by legislation, so might the prices of the commodities which are the subjects of commerce. Prices can only be regulated by parties engaged in navigation and in trade; they are matters of contract, and are affected by supply and demand; distance, competition, modes of conveyance, labor, insurance, risk, and a variety of circumstances, which only the contracting parties can determine and act upon.

We have seen that a railroad charter is a contract between the State and the corporators, which neither can abrogate or modify without the consent of the other; by this contract the company is to expend its money in the construction and equipment of the road, and to charge its own prices for passengers and freights; its franchises are to be exercised and enjoyed without molestation. If the Federal Government can now interpose its authority and reduce materially the prices, it virtually destroys the road and injures the stockholders. Congress could not know what the expenses of operating a road would be, nor its repairs, nor the repairs of cars, nor the depreciation of the rails of road by their use. None but those who operate a road can be accurately informed of the cost. The expenses vary considerably, and the seasons and circumstances make it impossible for Congress to legislate with any degree of certainty or justice upon the subject. These difficulties and embarrassments which surround the subject, not only create insuperable obstacles to the power claimed, and in their very nature not only demonstrate the impracticability of such a scheme, but should convince the mind of every constitutional lawyer and statesman that such a power is inconsistent with the relations of the two systems of government, and was never contemplated by the fathers of the Constitution.

But let us examine what continuous lines of railroad running through two or more States mean. It is not pretended that one State can charter a company to build a railroad in any other State, or to extend its operations beyond the fixed and known boundaries of the State itself; the States are separate and independent sovereignties, and no one of them can legislate to intrude upon another. A charter for the construction of a railroad is a contract, as before stated, to build a road within the State; it is a complete, perfect, and executed contract, and no power conferred upon the corporation can be exercised beyond the actual limit of the State-line. The corporation has a limited, legal, and tangible existence, and is perfect in its organization and franchises. Attempts may be made by two States to consolidate and make identical in both one corporation, so as to give it the form of unity, and a single existence; but any such effort would be nugatory for the reasons stated, of the separate and distinct organization and sovereignty of each State, and their respective boundaries of jurisdiction. In the following cases the court recognized

this principle: "A corporation whose franchises are conferred by the co-operative legislation of two States, cannot have one and the same legal being in both of them; neither could confer a corporate existence on it in the other;" the references are Ohio and Mississippi Railroad Company *vs.* Wheeler, 1 Bl., 286; Farnum *vs.* Blackiston Canal Company, 1 Sum., 46; Warren Manufacturing Company *vs.* Ætna Insurance Company, 2 Paine, C. C. R., p. 502. There cannot be, in a legal view of the matter, railroads having continuous lines running into or through two or more States. Railroads are owned and controlled by companies, and a company formed in one State cannot extend its lines of road into another. In each State there must be a distinct company; the corporators may be the same persons, but they have a separate legal existence, bounded by the lines of the respective States; the roads may come into contact at the dividing State-line, which may have but an imaginary existence, and thus become practically united. One of the utilities of railroads is their connection—it is convenient and profitable to the public; but such connection is formed by a contract or arrangement between companies, having a separate legal existence, and amenable to different tribunals for any violation of duty or franchise; proceedings in a Virginia court could not be had to annul a charter granted in Maryland. The roads, therefore, having connections, are no more continuous roads than a turnpike leading from one State into another incorporated by each; it would be just as legitimate to regulate the tolls or transportation on such turnpikes or ordinary roads as on railroads.

The Federal Government has exercised the power of laying an embargo upon commerce with foreign nations in time of peace; of compelling ships to lie up in ports and at wharves, and of preventing all trade and interchange of commodities with foreign countries. This is, perhaps, the highest and greatest stretch of the commercial power that it is capable of bearing; but no such power was ever claimed to exist in relation to commerce between the States. The idea of laying an embargo on State intercourse and traffic, and of preventing the communication and trade between the States which has always existed, and was never questioned, if attempted, would soon produce strife and contention that would speedily end in a disruption of the Union. Such a power is not germane to the condition of the States and their relations to each other and to the Federal Government, but is palpably repugnant to them all and to the continuance of the Union. Resistance and revolt everywhere would be seen, if an attempt were made to execute an act carrying out such provisions.

The power to lay duties or imposts on imports is no part of the power to regulate commerce, but is a part of the taxing power; it is substantive and distinct from that to regulate commerce; so that no strength is imparted to the subject of commercial regulations by the eighth section of the first article of the Constitution. In 4 Wheaton's Reports, McCullough *vs.* The State of Maryland, 421, the Supreme Court says: "In a separate clause of the enumeration, the power to regulate commerce is given as being entirely distinct from the right to levy taxes and imposts, and as being a new power not before conferred. The Constitution then considers these powers as substantive and distinct from each other, and so places them in the enumeration it contains."

The clause relating to commerce stands by itself, and must be construed with reference to the rights, interests, and usages of the States, when applied to intercourse between them.

The Constitution says, "Congress shall have power to regulate commerce with foreign nations and among the several States." Also, "No

State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws."

In the case of Woodruff *vs.* Purham, in 8 Wallace's Reports, p. 123, the Supreme Court decided that the term "import" as used in that clause of the Constitution which says that "no State shall levy any imposts or duties on *imports* or exports," does not refer to articles imported from one State into another, but only to articles imported from foreign countries into the United States. Hence, a uniform tax imposed by a State on all sales made in it, whether they be made by a citizen of it or a citizen of some other State, and whether the goods sold are the produce of that State enacting the law, or of some other State, is valid.

The case of the State of Maryland *vs.* Brown, 12 Wheaton, 419, arose under a statute of that State imposing a tax on goods in the bale or package in the hands of the importer, unbroken, and the Supreme Court decided the statute unconstitutional. It cannot fail to be observed that the word "imports" is used in the grant to Congress to lay duties on importations, and that the same word is used in the denial to the State of the power to levy duties on "imports;" and yet, in the case of Brown and the State of Maryland, the Supreme Court decided that it relates to foreign importations, and in the case in 8 Wallace, 123, that the same word does not refer to "imports" from one State to another. The identical word when applied to foreign and domestic commerce is declared to have a different signification, unlimited as to the former and limited as to the latter. There must have been a reason for this, and I submit that I have stated it, in the comments which I have made. The court, in delivering its opinion, said: "Whether we look, then, to the terms of the clause of the Constitution in question, or to its relation to the other parts of that instrument, or to the history of its formation and adoption, or to the comments of the eminent men who took part in those transactions, we are forced to the conclusion that no intention existed to prohibit, by this clause, the right of one State to tax articles brought into it from another." My object in referring to these cases is to show that a different interpretation is to be given to the term "to regulate commerce," when applied to foreign, than when applied to domestic, commerce; and that a general term, when used, is to have a specific or qualified application to the subject-matter to which it refers, according to its nature, relations, and surrounding circumstances. The power to regulate commerce between the States is a restricted power. Congress cannot do everything to promote commerce, even in reference to foreign nations. If the power to regulate foreign commerce be assumed to be indefinite, the Government would have the right to build, equip, and man ships and send them on commercial missions; it could build wharves, warehouses, &c., as a means to carry out the end proposed, but it has never been contended that the power to regulate embraces any such functions as those stated. In 9 Wheaton, 196, (Curtis's edition,) the court declared that the power to regulate "is to *prescribe rules* by which commerce is to be governed;" and in The Pasaic Bridge case, 3 Wal., 782; United States *vs.* The Senaca, 10 Am. L. R., 281; Brooks *vs.* The Peytonia, 2 West. L. M., 318; Whitaker *vs.* Lorentz, 520; United States *vs.* James Morrison, Newb., 241, the decisions go so far as to say that the power to regulate commerce has never been construed to include the *means* by which commerce is to be carried on within a State. The authority to establish and regulate ferries is not granted to the Federal Government, but is reserved to the States.—

(Conway *vs.* Tyler's Executors, 1 Bl., 604; United States *vs.* The James Morrison, Newb., 241; United States *vs.* The William Pope, *ib.*, 256.)

In the case of The United States against The Railroad Bridge Company, 6 McLane's R., 524, the court said: "Under the commercial power Congress may declare what shall constitute an obstruction or nuisance by a general regulation, and provide for its abatement by indictment or information through the Attorney-General; but neither under this power nor under the power to establish post-roads can Congress construct a bridge over a navigable water. This belongs to the local or State authority within which the work is to be done."

In the same case the court further said: "The right of eminent domain appertains to State sovereignty, and it is exercised free from the restraints of the Federal Constitution. The property of individuals is subject to this right, and no reason is perceived why the aggregate property in a State, of the individuals of the Union, should not also be subject to it. The principle is the same, in proportion to their interests. These easements have their source in State power, and do not belong to Federal action. They are necessary for the public at large, and essential to the interests of the people of the State." Further, in the same case: "If Congress can construct a bridge over a navigable water, under the power to regulate commerce, or to establish post-roads, on the same principle it may make turnpikes or railroads throughout the entire country." I have referred to these cases for the obvious purpose of showing the limited character of some of the powers of the Federal Government, and the extent of those of the States; that the Government has no authority to interfere with railroads, canals, turnpikes, ferries, and bridges, their only power being in the case of bridges, to declare them illegal, if they obstruct navigation or interfere with the passage of vessels.

It is conceded by the bar, and recognized by the courts, that the decision of any point, not made in a case before the court, or a running statement of what the judge considers the law on a point not presented or necessary to be decided, is a mere *obiter dictum;* has no authority with courts or the profession, but is considered as mere verbiage without weight or significance. Generally such decisions or allusions have not been argued or referred to by counsel in the cases, not discussed or labored, because unnecessary in the determination of the point before the court; the cases resting on other and relevant points, which exclusively engage the attention of counsel and the court in the trial; but when the judge renders his decision, he sometimes, by way of illustration, or to give more potency to his judgment, incidentally asserts that the law in another case, under different circumstances and involving different considerations and interests, is of a certain character. The opinions, therefore, of judges upon such extraneous matter and in extrajudicial cases, is not regarded by judges or lawyers as of any force. In the case of Gray *vs.* The Clinton Bridge, &c., vol. 16 Amer. Law Reg., p. 149, being a bill in the circuit court for the district of Iowa in 1867, to abate a bridge across the Mississippi as a nuisance, the following act of Congress was called up for the interpretation of the court: Section 1. "That the bridge across the Mississippi River, erected by the Albany Bridge Company and the Chicago, Iowa, and Nebraska Railroad Company, under the authority of the States of Iowa and Illinois, between the towns of Clinton, Iowa, and Albany, Illinois, shall be a lawful structure, and shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of War of the United States,

than the rate per mile paid for their transportation over the railroads or other public highways leading to the said bridge." The right to appropriate the soil on each side of the river was obtained by the railroad company by grants from the respective States.

The only question for the judgment of the court was whether the act of Congress, declaring the bridge a legal one, was constitutional under the power to regulate commerce; that Congress has power to prevent obstructions to navigation by bridges which would prevent the passage of vessels has been judicially adjudged; that it has the power to declare a road, turnpike, or bridge a post-route is conceded, but here the power ceases; a State can change a road and remove a bridge, or it can close a road after the road or bridge is declared a post-route. The mail is carried through the States over their roads, but the local authorities can alter, change, or shut up any road, according to its interest. But the judge, after deciding that the bridge was not a nuisance, and that the act of Congress was constitutional, in the delivery of his opinion, undertook to travel out of the record and the case, and went on to say, "For myself, I must say that I have no doubt of the right of Congress to prescribe all needful and proper regulations for the conduct of this immense traffic over any railroad, which has voluntarily become a part of one of those lines of interstate communication, or to authorize the creation of such roads, when the purposes of interstate transportation of persons or property justify or require it." It must be apparent that this superservice, for it cannot be considered an opinion, is in direct conflict with cases heretofore cited and decided by the circuit and Supreme Courts of the United States. If such a declaration was law, then turnpikes, railroads, canals, or ordinary roads, could all be made by authority of Congress or by the Government itself. Such works must first be made through a single State, then through another State, which, in the judge's statement, makes interstate communication, and draws to it the illimitable power of making all sorts of works and improvements against State authority, legislation, and interests. Such a power, if exercised, would scarcely leave a vestige of State sovereignty, and would inevitably lead to consolidation and the loss of liberty. This extraordinary assertion of the judge is believed to be the only one of its character in the entire country; he seems to confine it to "myself," and does not dignify it as the opinion of a court.

Mr. Madison, in a letter dated in 1825, and addressed to Thomas Ritchie, of Virginia, said: "With respect to the latter, (to make roads and canals,) Mr. Hamilton himself, on an occasion when he was giving the text of the Constitution its utmost ductility, (see his report on the bank,) was constrained to admit that they exceeded the authority of Congress."

In 14 Howard's Reports, 573, Veazie *vs.* Moor, decided by Judges Taney, McLean, Wayne, Catron, Daniel, Nelson, Grier, and Curtis, they discussed the power of Congress to regulate commerce. One of the points was, that the constitutional power of Congress in question embraces the right to adopt any means reasonably necessary, in their opinion, to the successful prosecution of commerce among the States and with foreign nations. The subject was fully argued by counsel, and the court, in delivering its opinion, in reference to the products of agriculture or enterprise in manufactures being carried by conveyances through the States in order to become the subjects of foreign commerce, and therefore are supposed to be within the import of the phrase, "foreign commerce," say that "*A pretension* as far-reaching as this would extend to contracts between citizen and citizen of the same

State, would control the pursuits of the planter, the grazier, the mechanic, the immense operations of the collieries and mines and furnaces of the country; for there is not one of these avocations the results of which may not become the subjects of foreign commerce, and be borne either by *turnpikes, canals*, or railroads, *from point to point within the several States*, toward air ultimate destination, like the one above mentioned. Such a pretension would effectually prevent or paralyze every effort at internal improvement by the several States; for it cannot be supposed that the States would exhaust their capital and their credit in the construction of turnpikes, canals, and railroads, the remuneration derivable from which, and all control over which, might be immediately wrested from them, because such public works would be facilities for a commerce which, while availing itself of those facilities, was unquestionably internal, although immediately or ultimately it might become foreign. The rule here given with respect to the regulation of foreign commerce equally excludes from the regulation of commerce between the States and the Indian tribes the control over turnpikes, canals, railroads, or the clearing and deepening of watercourses, exclusively within the States, or the management of the transportation upon and by means of such improvements. The design and object of that power, as evinced in the history of the Constitution, was to establish a perfect equality among the several States as to commercial rights, and to prevent unjust and invidious distinctions which local jealousies or local and partial interests might be disposed to introduce and maintain. These were the views pressed upon the public attention by the advocates for the adoption of the Constitution, and in accordance therewith have been the expositions of this instrument propounded by this court."

From these clear and lucid interpretations of the Constitution, the conclusion is inevitable that Congress has not a semblance of authority to fix a tariff or schedule of freights on railroads in one State, or where they are continued through two or more States.

It may possibly be contended by some that the words "common defense and general welfare," found in the eighth section of the first article of the Constitution, may have a tendency to enlarge the power to regulate commerce. It reads: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States." From what has been already said, it will be remembered that the Supreme Court has declared that the power of laying imposts is a taxing power, and not derived from that relating to commerce. It is a substantive, having no connection with the commercial, power. Mr. Madison, who assisted in framing the Constitution, in a letter to Andrew Stevenson, of Virginia, dated in November, 1830, has given a curious and interesting history of these remarkable words "common defense and general welfare," which I reproduce as follows:

In tracing the history and determining the import of the terms "common defense and general welfare," as found in the text of the Constitution, the following lights are furnished by the printed journal of the convention which formed it.

The terms appear in the general propositions, offered May 29, as a basis for the incipient deliberations, the first of which "*Resolved*, That the Articles of the Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution, namely, common defense, security of liberty, and general welfare." On the day following the proposition was changed for "*Resolved*, That a union of the States merely federal will not accomplish the objects proposed by the Articles of the Confederation, namely, common defense, security of liberty, and general welfare." The inference from the use here made of the terms, and from the proceeding on the subse-

quent propositions is, that although common defense and general welfare were objects of the Confederation, they *were limited objects*, which ought to be enlarged *by an enlargement of the particular powers to which they were limited*, and to be accomplished by a structure of the union from a form merely federal to one partly national; and as these general terms are prefixed in the *like relation* to the several legislative powers in the new charter as they were in the old, they must be understood to be under like limitations in the new as in the old.

In the course of the proceedings between the 30th May and the 6th of August, the terms "common defense and general welfare," as well as other equivalent terms, must have been dropped, for they do not appear in the draught of a constitution reported on that day by a committee appointed to prepare one in detail, the clause in which these terms were afterward inserted being in the draught simply, "the legislature of the United States shall have power to lay and collect taxes, duties, imposts, and excises." The manner in which the terms became transplanted from the old into the new system of government is explained by a course somewhat adventitious, given to the proceedings of the convention. On the 18th of August, among other propositions referred to the committee which had reported the draught, was one "to secure the payment of the public debt," and on the same day was appointed a committee of eleven members (one from each State) "to consider the necessity and expediency of the *debts* of the several States being assumed by the United States."

On the 21st August this last committee reported a clause in the words following: "The legislature of the United States shall have power to fulfill the engagements which have been entered into by Congress, and to discharge as well the debts of the United States as the debts incurred by the several States, during the war, for the *common defense* and general welfare," conforming herein to the eighth of the Articles of Confederation, the language of which is that "all charges of war, and all other expenses that shall be incurred for the common defense and general welfare and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury," &c. On the 22d August the committee of five reported, among other additions to the clause, "giving power to lay and collect taxes, imposts, and excises," a clause in the words following: "for payment of the debts and necessary expenses," with a proviso qualifying the duration of revenue laws. This report being taken up, it was moved as an amendment that the clause should read, "The legislature shall fulfill the engagements and discharge the debts of the United States." It was then moved to strike out "discharge the debts" and insert "liquidate the claims," which being rejected the amendment was agreed to as proposed, viz: "The legislature shall fulfill the engagements and discharge the debts of the United States. On the 23d of August the clause was made to read, "The legislature shall fulfill the engagements and discharge the debts of the United States, and shall have the power to lay and collect taxes, duties, imposts, and excises," the two powers relating to taxes and debts being merely transposed. On the 25th August the clause was again altered so as to read, "All debts contracted and engagements entered into by or under the authority of Congress (the revolutionary Congress) shall be as valid under this Constitution as under the Confederation." This amendment was followed by a proposition referring to the powers to lay and collect taxes, &c., and to discharge the debts, (*old* debts,) to add "for payment of said debts, and for defraying the expenses that shall be incurred, *for the common defense and general welfare*." The proposition was disagreed to, one State only voting for it. September 4 the committee of eleven reported the following modification: "The legislature shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare," thus retaining the terms of the Articles of Confederation, and covering by the general term "debts" those of the old Congress.

A special provision in this mode could not have been necessary for the debts of the new Congress; for a power to provide money and a power to perform certain acts, of which money is the ordinary and appropriate means, must of course carry with them a power to pay the expense of performing the acts. Nor was any special provision for debts proposed till the case of the revolutionary debts was brought into view; and it is a fair presumption, from the cause of the varied propositions which have been noticed, that but for the old debts and their association with the terms "common defense and general welfare," the clause would have remained as reported in the first draught of a constitution, expressing generally "a power in Congress to lay and collect taxes, duties, imposts, and excises," without any addition of the phrase "to provide for the common defense and general welfare." With this addition, indeed, the language of the clause being in conformity with that of the clause in the Articles of Confederation, it would be qualified, as in those articles, by the specification of powers subjoined to it. But there is a sufficient reason to suppose that the terms in question would not have been introduced but for the introduction of the old debts, with which they happened to stand in a familiar though inoperative relation. Thus introduced, however, they passed undisturbed through the subsequent stages of the Constitution. (See 4th vol. Writings of Madison, 121 to 125.)

This historic and detailed account of the words "common defense and general welfare," as furnished by Mr. Madison, is not only interesting and instructive, but it teaches clearly their restricted and limited sense in the connections and for the purposes they were used; it admonishes us not to give a construction to general terms for the purpose of enlarging the powers of the government, but to look at them in their proper connections, the circumstances in which they were employed, and their special relations to the subject-matter under consideration by those who were engaged in forming a constitution of enumerated powers and circumscribed limitations.

It will be noticed that these words are constantly kept in the connection of paying the debts of the States, incurred in the Revolution, or of the United States; that at one period they were entirely dropped in the consideration of the provisions of the Constitution, the debts having accrued for the "common defense and general welfare" of the Union, in the prosecution of the war in its defense; they were never used as expressive of substantive and distinct powers, but only as auxiliary to other powers enumerated in the Constitution; they are first used definitely to pay the debts of the United States; they are next used, "and provide for the general welfare"—that is, that the money raised by taxation shall, in addition to the payment of debts, be applied to the "general welfare," such as raising armies, and providing and maintaining a navy, &c.; that which relates to the whole country, as the security of liberty. Mr. Madison said that the same words, being transferred from the Articles of Confederation to the Constitution, must be interpreted in the latter as in the former, for they are used in the same connection, and have relation to the same subject. At the time the Constitution was formed, and for some years afterward, while the framers of it lived and participated in public affairs, and when the Constitution and its construction were constantly brought into notice and review, no such latitudinous construction as is now placed on such general expressions was ever urged. Mr. Madison and his contemporaries knew the circumstances attending the insertion, their meaning, and objects, and could easily have explained and refuted such constructions put upon them at this distant period by those who are not personally acquainted with the circumstances under which the terms were employed. Contemporaneous expositors had more information and knowledge of the intent and purpose for which certain words were used in their connections. This opinion is sustained by Mr. Madison in a letter to Edward Everett in August, 1830, upon the characteristic peculiarities of the Constitution. In that letter he said: "It may often happen, as experience proves, that erroneous constructions, not anticipated, may not be sufficiently guarded against in the language used; and it is due to the distinguished individuals who have misconceived the intention of those proceedings to suppose that the meaning of the legislature, though well comprehended at the time, may not be obvious to those unacquainted with the contemporary indications and impressions." In the third volume of his works, in a letter to Thomas Ritchie in December, 1825, p. 306, Mr. Madison said: "It has been impossible not to observe the license of construction applied to the Constitution of the United States, and that premises from which powers are inferred often cover more ground than inferences themselves." Mr. Madison might justly have added that the inferences from general expressions are often made to extend beyond the powers from which the inferences are made. In the third volume of his works, page 657, he states that "Virginia has always contended that the words 'common defense and

general welfare' are explained and limited to the enumerated objects subjoined to them, among which objects is the regulation of foreign commerce." I think it cannot be properly questioned that this is the true meaning and limitation of those words. They refer and have exclusive application to the enumerated powers, and do not create new ones. This construction is enforced by him in a letter dated May, 1830, (4th vol. Mad. Writings, 73,) to M. L. Hulbert, in which he says, in reference to these words: "Either of these, if taken as a measure of the powers of the General Government, would supersede the elaborate specifications which compose the body of the instrument, in contravention to the fairest rules of interpretation. The real measure of the powers meant to be granted to Congress by the convention, as I understood and believe, is to be sought in the *specifications* to be expounded." And in a letter to Martin Van Buren, in 1826, he wrote: "But while the terms 'common defense and general welfare' remain in the Constitution unguarded against the construction which has been contended for, (to make roads and canals,) a fund of power inexhaustible and wholly subversive of the equilibrium between the general and State governments is within the reach of the former. Why, then, not precede all other amendments by one expunging the phrase, which is not required for any harmless meaning, or making it harmless by annexing to it the terms 'in the cases required by the Constitution?'"

Daniel Webster, in a speech at Albany, in 1844, expressed views substantially in consonance with those of Mr. Madison. He said, "The Constitution assigned to the General Government the power of war and peace; the power of making treaties, and that other important, and it has turned out, absolutely indispensable power, the regulation of commerce. Government has attempted to perform all these duties. It has exercised the power of regulating commerce. So has it sought to establish justice, another of its objects. It has done so especially in the great matter of paying off the debt of the Revolution; it has enacted laws to insure domestic tranquillity, and it has effected the object. It has provided for the *common defense* by organizing armies, equipping navies, and such other preparations as the exigences of our position have rendered necessary. In these and other ways it has endeavored to promote the *public welfare*, and it has not neglected any means for securing he blessings of liberty."—(2d vol. D. W. works, 225,226.)

Mr. Madison has defined the words "general welfare;" he has given to them their historic and connectional meaning, their construction by the constitutional convention, by his contemporaries, and the usages of the Government; he has shown that any other interpretation of them would be "wholly subversive of the equilibrium between the General and State governments;" in other words, it would undermine and destroy the foundation of the latter, and invest the former with unlimited power, which would inevitably result in the destruction of our system of government, and the blessings of that liberty it was intended to secure. Mr. Webster, entertaining the same views, declared that the Government had already executed the Constitution—first, by regulating commerce; that it had provided for the common defense by raising armies, &c., and the *public* welfare, (which is general welfare,) and secured the "blessings of liberty." These great fundamental objects of the Constitution Mr. Webster declared had been obtained and consummated; he made no allusion to any unexecuted duty of the Government, but he vindicated its Constitution and form by boldly declaring that it had been fully executed; he comprehended the subject, but never alluded to any such implied or unexecuted powers as is claimed by some.

It is admitted that the Government of the United States is one of specific and enumerated powers; that the Constitution, in the ninth article, declares that "the *enumeration* in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people;" and in the tenth article, that "the *powers not delegated* to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." But read the Constitution, and it will be found that from beginning to end the powers or faculties of the instrument are *specified*, named, and noted with particularity; the enumeration of powers runs through the entire instrument, and it will be observed that the greatest caution is used to limit and particularize the powers conferred, and to restrain the States from the exercise of certain definite powers. Can any rational mind conceive that, after so much caution, labor, and diligence in the convention to construct a Federal Government, with powers and faculties specific, limited, and definite, so as to avoid all possible conflict with the State governments, it should, after such enumeration, insert words of such general and extensive import as to imply powers of infinite and illimitable extent? Can it be presumed that sensible, discreet, and wise men, who were called to perform a duty and to execute a work of such vast magnitude, involving the interest and happiness of millions then existing and of many millions to succeed them, a work for all time, and to bind together interests and people in a manner unknown in the annals of history, could have been so injudicious and blundering as to insert a few words, "the general welfare," which contained powers unlimited, overriding and overshadowing all the specific and enumerated powers which it had cost them such intense consideration and effort to provide? They knew the jealousy of the States upon the subject of parting with a portion of their powers, with what a watchful vigilance their proceedings were regarded, and how difficult or impossible it would be to obtain a ratification of the instrument they might form, unless the limitations of power were distinct and plain. It is impossible to believe that they consummated their great work by a cap-stone that would weigh down and destroy the whole fabric. They were too wise and good to have finished the Constitution by any such act of folly and mischief.

After the Constitution had been tried for two years, the people of the United States, so devotedly attached to their State constitutions and reserved rights, and so apprehensive that even by misconstruction, those rights might be injuriously affected, and collision ensue between the governments, they determined to have amendments made to the Constitution, so as to make manifest and explicit the meaning and intention of the framers of it; they proposed and adopted ten amendments, every one of which is a restriction upon the Federal Government, or declaratory of the rights of the people; not one of them enlarging, in the slightest manner, the powers of the General Government. Can any one suppose that a people so jealous of their rights, and determined to guard and protect them, would have made all these amendments for that purpose, and have left the words, "to regulate commerce and to promote the general welfare," remain, to be construed as containing "a fund of power inexhaustible, and wholly subversive of the equilibrium between the General and State governments," if they knew or suspected those terms to be the fountain of such vast powers as have since been claimed? To suppose this, would be to assume an ignorance or infatuation of the people which their known watchfulness and intelligence forbid.

In conclusion, permit me to say that secession is only one mode of

breaking up the Government so wisely and aptly fitted for a free people, when administered according to the spirit and intention of the Constitution; construed as the fathers understood it, with all the lights and advantages which they and their contemporaries enjoyed, as expounded by them when it was presented to the people of the States for ratification, and after it was put into operation. But wresting it from its true interpretation and, as time advances, claiming for it functions which it never possessed, is another mode of producing dissolution, or a consolidation as effective and more injurious to liberty and representative government. The evils of both should be carefully and constantly avoided. Secession has been tried and proved a failure; but let us beware of the other vortex, which may at some period produce the most disastrous results. Let us guard the rights of the Federal Government, where they are explicit and delegated, and let us avoid every encroachment upon the powers of the States, however small, and instead of claiming extension of power, beyond the plain and sensible construction of the Constitution, cultivate a spirit of union, harmony, and forbearance; of prudence, moderation, and magnanimity; and we shall strengthen the bonds which unite us and secure prosperity for our country. The Federal Government is clothed with powers which are plain, expressly delegated, and ample to make us a great nation and to command a respect and influence throughout the world, without drinking at the fountain of implied powers, and of drawing inferences greater than the powers granted. It has power to preserve its existence, to execute its undisputed and adequate enumerated powers, and to maintain its prestige and status among the nations of the earth. Why should it, then, attempt to grasp controverted authority, which will produce internal dissension and alienate the feelings and attachment of the people? Let us cultivate a spirit of justice and patriotism, of union, amity, and peace, and we shall contribute to strengthen and solidify the foundations of our institutions and preserve the liberties of the people.

GEORGE VICKERS,
Minority of Committee.

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 463.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3815.]

The Committee on Pensions, to whom was referred the bill (H. R. 3815) granting a pension to James P. Rader, submit the following report:

The facts in the case are as follows:

Rader was an enlisted man in Company C, Forty-ninth Regiment Ohio Volunteers, and for three years his merit as a soldier was conspicuous in the various campaigns and battles in which this regiment participated, an account of which is given by Colonel W. H. Gibson. He re-enlisted as a veteran in January, 1866, and was granted a veteran furlough and returned to Ohio. When his furlough was about expiring he and other soldier sassembled at Bucyrus, on their way to the rendezvous of the regiment at Tiffin. Bucyrus is the county-seat of Crawford County. The opposition to the war and the measures of the administration was very violent in this place and county, and the sight of the soldiers of the Union Army in their uniform provoked bad feeling, which found frequent expression in opprobrious epithets and brutal assaults. Colonel Gibson says that in March, 1864, Bucyrus was as absolutely in the hands of the enemy as was Atlanta or Mobile. Other witnesses say that soldiers were less exposed to death at the front than in Crawford County. One witness, a lawyer, says that the Union men, who were largely in the minority in this county, were met with every conceivable opposition, violence, and contumely, and mob violence was of daily occurrence. He has seen twenty infuriated men of secession proclivities chase a single unoffending soldier for no other cause than the uniform he wore. Soldiers who came home on a furlough were attacked and beaten on their way from the cars. No notice of outrages upon Union men and soldiers was taken by the municipal authorities; not a prosecution was instituted nor an indictment found against the authors of these outrages, while the Union men were harassed with prosecutions for resisting violence. This is the general picture given.

In the midst of this state of things, Rader, with other soldiers, on their way to Tiffin, was in Bucyrus in March, 1864. Several of them went into a store before the train started to make purchases. In the back room were several secessionists. Rader inquired for some article. While examining the goods he was approached by a man, a stranger to him, who inquired what he thought of Lincoln's administration, the war, the emancipation proclamation, &c., to all of which he made friendly answers. The clerk behind the counter contradicted his statements and

used very abusive language, assailing him as a liar, coward, and Lincoln hireling. From words the clerk, whose name was Adam High, proceeded to an assault and struck him with his fists, and finally shot him with a revolver, the ball taking effect in the neck above the right shoulder, lodging along the spine, between the shoulders. From the effects of this wound he is now paralyzed on one side. Several shots were fired from the back room; Fulton and others joined in the assault on the claimant. Another soldier of Rader's company, at the same time received two shots in the left leg. All the accounts agree that Rader was a sober, orderly man, and on the occasion in question was guilty of no misconduct to justify the brutal assault.

The committee think this a meritorious case, and recommend the passage of the bill.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3800.]

The Committee on Pensions, to whom was referred the bill (H. R. 3800) granting a pension to Job S. Goff, submit the following report:

Goff was a private in Company K, Forty-second Ohio Volunteers. He enlisted September 28, 1861, and was discharged January 15, 1863.

He alleges a disability while in the service, from a fracture of three ribs and injury to his back, from falling off a precipice of rocks, near Cumberland Gap, in September, 1862, while hunting for water.

The Adjutant-General reports him for March and April, 1862, as sick, at hospital, Ashland, Kentucky. Nature of sickness not stated. For September and October, 1862, he is reported as sick, at hospital at Gallipolis. On muster-roll of the company for March and April, 1863, he is reported discharged at hospital, Memphis, Tennessee. Cause and date not known.

The Surgeon-General reports him admitted to general hospital, Ashland, Kentucky, March 27, 1862, for treatment for diarrhea, and as furloughed from April 1 to May 1, 1862. No evidence of re-admission. Entered general hospital, Gallipolis, Ohio, October 23, 1862, (diagnosis not given,) and was returned to duty November 13, 1862. The records of Memphis and the discharge records of the Surgeon-General's Office furnish no information in his case.

The captain of his company testifies that while on the march with his company, on the return from Cumberland Gap, in September, 1862, and about the last of the month, the claimant, while in the line of duty, fell off a precipice of rocks, breaking three of his ribs, and so badly injuring his back as to cripple him for life.

The claimant testifies that he was unable to procure the certificate of any physician as to his disability. The physician who attended him during his disability is dead. He has made careful inquiries, but cannot find the whereabouts of his regimental surgeon.

Dr. N. D. Scarff, on May 6, 1870, reports him one-half disabled, from injury in the small of his back, and thinks the disability permanent.

This is the summary of the proof, as abstracted at the Pension-Office.

The pension-claim was rejected at the Pension-Office, November 16, 1871, under the 6th section of the act of July 4, 1864.

Dr. Scarff, under date of May 16, 1870, says:

The condition of this applicant, as given, covers nearly the entire ground. There is no visible injury, but he is affected in the left side and back with something similar to a chronic rheumatic affection of those parts. In other respects his health is good. Before entering the service I knew him to be a healthy, athletic man. Since his discharge he has complained more or less of weakness, pain, and tenderness in back and side, and this has been rather on the increase than otherwise.

The above statement of the soldier's case was called out by the application of the medical referee of the Pension Bureau, who desired a fuller description of the precise lesion and its effects, from Dr. Scarff.

From the decision of the Commissioner in this case, it appears that the claim was filed November 14, 1865, and not having been prosecuted to a successful issue within five years from the date of filing, it was rejected on November 28, 1872, under the provision of the act above quoted, in default of satisfactory evidence from the War Department establishing the fact that the alleged disability was incident to the service and line of duty. He refers to a recent decision of the Secretary of the Interior, that this deficiency could not be supplied by a change in the records in the War Department.

Upon this condition of facts the committee are of opinion that this bill ought to pass. The soldier ought not to be concluded by the silence of the records as to his disability and its causes in the presence of positive proof as to the mode, nature, and extent of the injury which, according to the proof, incapacitates him to the extent of one-half from earning his subsistence by manual labor.

Accordingly, the committee recommend the passage of the bill.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 465.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3797.]

The Committee on Pensions, to whom was referred the bill (H. R. 3797) granting a pension to Ada Lois Harrison, submit the following report:

Ada Lois Harrison is the minor daughter of Samuel Harrison, late a private in Company I, Eighty-ninth Regiment Indiana Volunteers, and will be sixteen years of age on June 10, 1879. While he was stationed at Eastport, in the State of Mississippi, Harrison obtained a furlough of thirty days to return to his home in Adams County, Indiana, to visit his sick family. His furlough bore date January 19, 1865.

He took passage home on the steamer Eclipse, which left Eastport on the 20th day of January. A few days afterward the boiler of the vessel exploded and Harrison was killed.

His widow applied for a pension. Her claim was rejected because the death occurred while her husband was absent on furlough.

Having been remarried, to John Martin, October 2, 1866, she made application again as the guardian of her daughter, the said Ada Lois, but the second application met the same fate and for the same reason.

The application is now renewed in the name of the daughter, who asks for a pension until she becomes sixteen years of age.

The cause of the rejection of the claim at the Pension-Office was because Harrison was absent neither on a sick or veteran furlough.

The committee recommend the passage of the bill.

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 466.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3798.]

The Committee on Pensions, to whom was referred the bill (H. R. 3798) granting a pension to James A. Sanders, submit the following report:

The two discharges produced in evidence show that James A. Sanders was first enrolled a private in Company K, Thirty-first Regiment Illinois Infantry, on August 10, 1861, and that he was discharged from the service on the 4th day of January, 1864, at Big Black, in Mississippi, by reason of re-enlistment as a veteran volunteer, no objection to his re-enlistment being known to exist. He was discharged a second time from the service on the 30th day of May, 1865, by reason of telegram from the War Department, dated May 12, 1865.

There is no official record of any disability. But the evidence shows that while stationed at Cairo, about January 1, 1862, he was sick with the measles and in the hospital at that place for about a month. While there the fight at Belmont occurred and he was not able to be with his command.

The evidence shows that his eye-sight was good when he entered the service; he is totally blind now and unable to perform the usual labor of a farmer. He lives upon a small farm and his neighbors assist him in carrying it on. He has applied to several physicians and oculists for aid, but without avail. He excuses the production of the evidence of the surgeon of the regiment because of his probable death. There is, however, some medical proof. Several unprofessional witnesses testify that after his recovery from the measles his eye-sight was affected, one eye at first appearing enlarged and watery, the other came to sympathize with it. While in the Army his exposure affected his eyes, and his comrades noticed them as weak and watery.

Dr. McCord swears that soon after Sanders's discharge he visited him professionally, he thinks about the 1st of June, 1865, and has been his attending physician ever since. On his first visit he found the soldier suffering from diarrhea and conjurectritis, this difficulty resulting, in his opinion, from the effects of rubeola, which he contracted while in the service. The disease of the eyes continued, becoming much aggravated in November, 1867, involving all the turices of the eye, which has resulted in total blindness.

While it would have been quite out of order for the learned doctor to have delivered himself in language intelligible to unprofessional

readers, the committee have thought it due to this honorable body to say they have learned that "rubeola" means *measles*. But all efforts up to this time to learn what ill of the body "conjurectritis" defines, have proved abortive, and we have only a speculative sort of notion what the "turices" of the eye are. But the committee think it evident enough that the physician traced the affection of the eyes to measles, and we think a man who could wield upon occasion such ponderous words ought to have imparted to his conclusions a corresponding ponderosity.

A board of examining-surgeons examined Sanders on February 1, 1871. In their opinion he was then totally incapacitated, &c.; his disability *temporary*, and he was suffering with double lenticular cataract; sight destroyed in both eyes, and to that degree as to require the assistance of another person to take care of him.

The Surgeon-General certifies: "That a careful examination of the records of the hospital at Cairo, Illinois, covering from November 1, 1861, to April 1, 1862, failed to furnish any information concerning James A. Sanders, private, Company K, Thirty-first Illinois Volunteers." He adds, however, that the regimental records of "sick and wounded" of the Thirty-first Illinois Volunteers were not on file.

With all the evidence before him, the Commissioner of Pensions said, June 19, 1872:

"There is neither record nor parol evidence sufficient to establish said claim.

"The disability is alleged to have been incurred about January 1, 1862; the claimant was discharged from first term of enlistment January 4, 1864, without evidence of disability; re-enlisted January 5, 1864, and was discharged without evidence of disability May 30, 1865."

The claim was rejected, the Commissioner laying stress upon the fact that there was no evidence of treatment during service.

On the contrary, the claimant dates the disease of his eyes from the time he had the measles, and says that at the time of his first muster out the officers hesitated about re-enlisting him, and that his eyes were very sore at times, though he continued to perform his whole duty as a soldier while he remained in the service. He affirms that his present condition is due to his attack of the measles and subsequent exposure.

His statement is corroborated by the man who raised him, who says that when the soldier came home on veteran furlough he noticed the ball of his left eye was enlarged and weak and water ran from it most of the time. The same witness says that, after the soldier's return from his second discharge, this eye was still more enlarged and in a worse condition than on his first return, and that during cold or stormy weather both eyes were affected and watery, and that they have been gradually growing worse ever since, until the sight is gone from both.

A twin-brother, who was in the service with the claimant during the entire period of his service until the latter was taken prisoner by the rebel forces at Goldsborough, swears that his brother's eyes were so bad at times that he was unable to do duty.

The first lieutenant of the company speaks of the attack with measles of the private at Cairo, his confinement in the hospital there for a month, and proceeds to say, that after Sanders's recovery and his return to the regiment, his eyes were affected by any exposure, and the taking of a cold would affect them and make them weak and sore; that after he became a veteran he was not able to perform guard-duty on dark or stormy nights and during disagreeable weather. He swears that Sanders's eyes were good when he entered the service, and that he was a good and faithful soldier.

This is the substance of the evidence in the case.

While the case is not entirely free of doubt, the committee are of opinion that they would be liable to do the soldier injustice were they to hold that he should be concluded by the absence of official evidence that his disability occurred while in the service. They cannot overlook the testimony of Dr. McCord, which, though clouded by the employment of technical language, leaves the impression that he traces a connection between the measles and his patient's condition. The testimony, otherwise, is clear that his eye-sight was good when he entered the service and was bad after the attack of the measles, and grew worse continually thereafter.

The committee therefore recommend the passage of the bill.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 467.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 21, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 1800.]

The Committee on Pensions, to whom was referred the bill (H. R. No. 1800) granting a pension to Samuel Schuler, have had the same under consideration, and submit the following report:

Petitioner, late a private in Company E, Sixty-first Pennsylvania Regiment Volunteers in the war of 1861, was admitted to the pension-roll January 19, 1866, by reason of disability resulting from gunshot wound in the battle at Cold Harbor, June 7, 1864, at the rate for two-thirds disability, which was reported temporary.

In September, 1866, he applied for an increase, under the act of 6th June, 1866, alleging disability from rupture, contracted while in the service at Cold Harbor, Virginia, which he had omitted to mention in his original application. The Commissioner of Pensions directed careful examination to be made by examining surgeons, and from time to time, between that date and 1870, three or four surgeons made reports upon his case, differing with each other, and some of them with themselves, upon a re-examination, as to the extent and duration of the disability, though the weight of evidence was against an increase. The rate was thereupon reduced to four dollars per month, and finally, upon the recommendation of the medical referee, the pensioner was dropped from the rolls.

This application is based upon the disability caused by hernia; at the same time it is shown by the reports of two of the examining surgeons, as late as the fall of 1869, that the petitioner was still suffering from the gunshot wound, one of them pronouncing it permanent. The latter injury is known to have been received while in service, and though the petitioner is unable to make proof from the records of disability from ruptures contracted in the service, or to establish the fact by his family physician that he was sound in that respect before he entered the service, yet it is in evidence that he was examined by a surgeon prior to his enrollment, when no objection was made on that or other disability. He testifies that the injury was received while at work on rifle-pits at Cold Harbor, June, 1864, which is so far corroborated by his neighbor and former companion, who knew him intimately, as to make it improbable that he was so afflicted before he mustered into the service.

The case is not free from doubt as to the degree of disability, but after considering the testimony the committee conclude the preponderance is in favor of the petitioner, and so also in regard to the cause of the disability and how and where it originated, and therefore recommend the passage of the bill without amendment.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 468.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3796.]

The Committee on Pensions, to whom was referred the bill (H. R. 3796) granting a pension to Emily Booth, submit the following report:

Emily Booth is the widow of George F. Booth, late a private of Company A, Eighteenth Regiment of Massachusetts Volunteers. He was mustered into service on the 5th day of September, 1861, to serve three years or during the war. He committed suicide January 4, 1862, at Hall's Hill, in Virginia, while in the Army of the Potomac.

He was married to Emily Bray, January 1, 1851. He left her his widow. There was one child, the fruit of the marriage, born November 27, 1855, and now more than 16 years of age.

The claim of the widow to a pension was rejected at the Pension Bureau, because it did not appear that the soldier's death occurred by reason of his service in the Army.

It is proved by a lieutenant and regimental quartermaster of the regiment that Booth was a healthy and able-bodied man at the time of his enlistment; that during the winter of 1861–'62 he became homesick and melancholy, which ended in insanity, and that, when thus insane, he committed suicide.

The captain of Booth's company also testifies that Booth was laboring under partial insanity for several weeks while in camp at Hall's Hill, and he expresses the belief that the soldier committed suicide while laboring under insanity.

The committee think the evidence sufficient to justify that belief, and recommend the passage of the bill.

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42D CONGRESS, 3d Session. | SENATE. | REPORT No. 469.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. ANTHONY submitted the following

REPORT:

[To accompany bill S. 1592.]

The Committee on Naval Affairs, to whom were referred petitions of several officers of the Navy, praying a modification of the act of January 16, 1857, that they may receive the pay of their actual rank, have had the same under consideration, and report as follows:

The petitioners, officers in the United States Navy, were, by the action of a board of naval officers, constituted under the act of February 28, 1855, placed on the retired list, furloughed, or dropped.

That in accordance with the act of January 16, 1857, and the joint resolution of March 10, 1858, authorizing the President to restore certain officers to the active list where the records of courts of inquiry "may render it advisable," these officers were placed on the active list, and were also promoted to date from the day they were placed on the retired list, furloughed, or dropped, by the naval board.

The sixth section of the act of January 16, 1857, provides: "That all officers who may be restored to active service under the provisions of this act shall be entitled to draw the same pay they were drawing at the time they were retired or dropped, for and during the time of such retirement or suspension from the active service aforesaid."

By the construction given to this section by the accounting officers, these claimants only received the pay to which they were entitled at the time of their retirement, although their commissions on re-instatement to the active list gave them an advanced rank, to date from the time they were retired.

This act and the resolution of March 10, 1868, authorized the President, by and with the advice and consent of the Senate, to restore these officers to the position and rank in the Navy which they would have held had they not been retired, furloughed, or dropped, on the report of the naval board or court of inquiry, but by the interpretation of the sixth section above quoted, they were not allowed and have never received the pay of the rank they held upon restoration to the active list.

The committee have not deemed it necessary to inquire into the justice or injustice done by this naval board, for if a wrong was perpetrated on the officers who were ordered before it for examination, the President, in the exercise of his powers, reviewed the action and corrected the errors, in restoring these officers with the advice and consent of the

Senate; and at the same time promoted them to the positions they would have held respectively, had it not been for the recommendations of the court of inquiry.

The committee have given this matter a most careful examination, and can see no good reason why an officer in either branch of our service should not receive the pay of his proper rank, withheld from the petitioners as before stated, and therefore report the accompanying bill and ask its passage.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 470.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2766.]

The Committee on Pensions, to whom was referred the bill (H. R. 2766) granting a pension to Mary Whalen, submit the following report:

The evidence in this case shows that Mary Whalen is the widow of Michael Whalen, who was a private in Twenty-eighth Regiment Kentucky Volunteers; that her husband was discharged in 1865 and died in 1867. The evidence further shows that her husband was a stout, healthy man when he enlisted; that during his service he was greatly afflicted with rheumatism; was sent to hospital at Nashville, and afterward to the hospital at Louisville; that when he was discharged he returned home on crutches, greatly emaciated and broken down in health, and that he was never able to labor even for a day afterward. His widow alleges in her petition that while in hospital he contracted chronic diarrhea, from which he never recovered; and one witness makes affidavit that the soldier stated to her, on his return home, that he had said disease. The application was rejected at the Department because there was no medical testimony as to the nature of the disease that caused the death of the soldier, and that it was contracted in the service. The absence of such testimony is accounted for by the widow from the fact that they were too poor to employ a doctor, and because her husband invariably said one could do him no good.

The strict rules established by the Department are necessary for its protection against imposition; but their application doubtless excludes many worthy cases. In this instance the proof of disability in the service is clearly established, and that the soldier was never well after his discharge. These facts established by competent evidence, it becomes less important to know from medical testimony the nature of the disease which caused his death. His service resulted in broken health, which terminated his life, and the committee therefore favor the passage of the bill.

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 471.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. HARLAN submitted the following

REPORT:

[To accompany bill S. 1513.]

The Committee on Indian Affairs, to whom was referred Senate bill 1513, *to carry out certain Indian treaties of* 1866, *and to organize the Territory of Oklahoma, report:*

That the United States has complete and absolute jurisdiction over all that part of the Indian Territory lying west of a line following the 96th meridian longitude, extending from the State of Kansas to the southern boundary of the Cherokee reservation; thence westward along the southern border of the Cherokee ceded lands to the western line of the Creek diminished reservation; thence south along the western border of said Creek reservation to the North Fork of the Canadian River; thence westward along said river to the west line of the Seminole reservation; thence south along said line to the Canadian River; thence westward along said river to the west boundary of the Chickasaw country; thence south along said line to the Red River, as will more fully appear from a perusal of article three of the treaty of July 10, 1866, with the Choctaw and Chickasaw Indians; article three of the treaty of August 16, 1866, with the Seminole Indians; article three of the treaty of August 11, 1866, with the Creek Indians; article sixteen of the treaty of August 11, 1866, with the Cherokee Indians.

We find that the United States have not parted with the jurisdiction over the territory above described by their several treaties with the Great and Little Osage Indians, Cheyennes and Arapahoes, Pottawatomies, Sacs and Foxes, Kiowas and Comanches, now inhabiting portions of said country, and consequently has the unrestrained right to enact laws for their government, and the administration of justice among them. Your committee also find by perusal of articles seven and eight of the before-named treaty with the Choctaws and Chickasaws, article seven of the said treaty with the Seminole Indians, article ten of said treaty with the Creeks inhabiting a large proportion of the territory lying east and south of the before-mentioned line, that said Choctaws and Chickasaws, Seminoles and Creeks, have conferred on the United States the right to establish territorial governments including their respective reservations; and by a perusal of articles twelve and thirteen of the treaty of August 11, 1866, with the Cherokees, have authorized the United States to establish courts within their diminished reserve, and a grand council to be composed of delegates from all the Indian tribes residing in the Indian Territory, as

will fully appear from a perusal of said articles of treaties hereto appended, and made a part of this report; and by reference to section 4 of "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1873, and for other purposes," that Congress has made appropriations from year to year to defray the expenses of said general legislative council, thus recognizing the authority and duty of the United States to provide laws for the common government of all the people residing within the whole of said Indian Territory, with a view to their consolidation as one community, and the administration of justice among them under the authority of uniform law.

But your committee are impressed with the inefficiency of laws enacted for the government of these people by general legislative assembly which must depend on each of twenty or more distinct and independent tribal organizations, and their imperfect system of courts, for adjudication and enforcement.

A common executive and courts established under general laws, it is obvious, must be as necessary to enforce the enactments of the laws of the general territorial council as are a chief executive and United States courts for the efficient and uniform adjudication and enforcement of the laws of the United States among the several States of the Union.

Your committee therefore recommend the passage of the beforementioned bill with amendments, as herewith reported to the Senate.

The seventh article of the Choctaw and Chickasaw treaty of 1866 reads as follows:

The Choctaws and Chickasaws agree to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of persons and property within the Indian Territory: *Provided, however,* Such legislation shall not in anywise interfere with or annul their present tribal organization or their respective legislatures or judiciaries, or the rights, laws, privileges, or customs of the Choctaw and Chickasaw nations, respectively.

The tenth article of the Creek treaty of the same year is similar:

The Creeks agree to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of person and property within the Indian Territory: *Provided, however,* [That] said legislation shall not in any manner interfere with or annul their present tribal organization, rights, laws, privileges, and customs.

The first paragraph of the seventh article of the Seminole treaty of 1866 reads as follows:

The Seminole Nation agrees to such legislation as Congress and the President may deem necessary for the better administration of the rights of person and property within the Indian Territory: *Provided, however,* That said legislation shall not in any manner interfere with or annul their present tribal organization, rights, laws, privileges, and customs.

The thirteenth article of Cherokee treaty of 1866 reads as follows:

The Cherokees also agree that a court, or courts, may be established by the United States in said Territory, with such jurisdiction and organized in such manner as may be prescribed by law: *Provided,* That the judicial tribunals of the nation shall be allowed to retain exclusive jurisdiction in all civil and criminal cases arising within their country in which members of the nation, by nativity or adoption, shall be the only parties, or where the cause of action shall arise in the Cherokee Nation, except as otherwise provided in this treaty.

O

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3801.]

The Committee on Pensions, to whom was referred the bill (H. R. 2735) granting a pension to Mary E. Foster, of Chillicothe, Missouri, submit the following report:

The records of the Adjutant-General's Office show that James Foster was mustered into service as a private on the 13th day of January, 1862, in Company K, Sixth Regiment of Missouri Cavalry, State militia, to serve in Missouri. On the muster-roll of the company he is reported as killed by guerrillas near Lexington, Missouri, May 6, 1864, while on furlough.

The proof shows that he had a furlough for thirty days, and was taken from a stage-coach between Lexington and Warrensburgh, and killed by a band of guerrillas. He lived in Ray County, and his house had recently been burned, and he was on his way home to provide shelter for his family.

His marriage to Mary Carr is proved, as also that she bore him two children, one in 1859, the other in 1861.

The claim of the widow was rejected in the Pension-Office because the soldier was absent at the time of his death on furlough, and not in line of duty.

It is sufficiently evident from the proof that he was killed by the bushwhackers because he was a soldier in the Union Army.

The committee recommend the passage of the bill.

O

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 473.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2767.]

The committee to whom was referred the bill (H. R. 2767) granting a pension to Ardella D. Warfield and Lindsley N. Warfield, submit the following report:

The facts upon which the passage of this bill is urged are, as appearing from the evidence in the papers accompanying the bill, briefly these: Ardella D. Warfield and Lindsley N. Warfield are minor children of Andrew W. Warfield, late a private in Fifteenth Regiment New York Volunteers, who died April 24, 1865, at Raleigh, North Carolina, of typhoid fever, while in the line of duty. The soldier left no widow, his wife having died in 1864. The marriage of the soldier, and the birth of his children, his service and death while in line of duty, are established by affidavits. The claim was rejected at the Department because not sufficient evidence at the War Department, and the claim not prosecuted to completion within the time prescribed by law. The evidence furnished by affidavits the committee deem sufficient, and recommend the passage of the bill with amendments.

O

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 474.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2768.]

The Committee on Pensions, to whom was referred the bill (H. R. 2768) granting a pension to Mary A. Dodd, submit the following report:

Mathew M. Dodd, the late husband of Mary A. Dodd, was a carpenter in the naval service of the United States for about fourteen years, and died in 1859. The petition of the widow bases her claim to a pension upon the long service of her husband, and attributes his death to disease contracted therein. Several physicians certify that he died of "hypertrophy of the heart," and express the belief that it resulted from frequent attacks of rheumatism, which, they say, was contracted in the service. The Chief of the Bureau of Medicine and Surgery in the Navy Department states that the records of the ships Cyane and Saranac show that the said Dodd while on said vessels was treated for various diseases, among them syphilis, jaundice, and scrofula, and no evidence of record to connect the disease with which he died with the service he performed. He was connected at the time of his death, and for a considerable time previous thereto, with the receiving-ship Pennsylvania, at the Gosport navy-yard, and died in Portsmouth. The medical evidence is contradictory in opinions expressed as to the origin of the disease of which he died, and settles nothing satisfactory on this point. In the uncertainty arising from the testimony, if such mere opinions can be called testimony, the committee do not deem it proper to recommend the passage of the bill, believing that there should be at least a preponderance of evidence in favor of an application for a pension to warrant such a recommendation.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 475.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 2481.]

The Committee on Pensions, to whom the petition of Mary E. Shultz has been referred, finds the following facts in this case:

From the petition, which is sworn to by petitioner, it appears that her husband, George W. Shultz, was first engineer on the steamer Reaney, in the service of the quartermaster's department at Key West, Florida, where he died of yellow fever on 19th of August, 1864, contracted in the service, leaving a widow, Mary A. Shultz, the petitioner, with two small children.

Accompanying the petition there is the certificate of marriage; also, a letter from A. Patterson, mayor of the city of Key West, to Mrs. Shultz, conveying the news of the death of her husband at that place August 19, 1864.

There is no evidence that deceased was ever mustered into the service. The presumption, therefore, is that he was a mere employé of the Government.

42D CONGRESS, 3d Session. | SENATE. | REPORT No. 476.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 1068.]

In the case of Martha B. Williams, mother of Captain John F. Caven, late Captain Company G, Eleventh Indiana Volunteers.

The deceased was mustered into service November 22, 1861; was discharged November 22, 1864; died February 8, 1866, in the Saint Joseph Infirmary, Louisville, Kentucky, from paralysis. The applicant was married in 1850 to her present husband. The proof that her said son furnished her chief support previous to her marriage, and that he furnished her money after marriage up to the time of his death, is clear. There is also evidence that her present husband is an invalid, incapable of active physical labor, with little hope of recovery.

Her application was rejected by the Commissioner of Pensions, on the ground that the evidence did not satisfy him that the disease of which the soldier died was contracted in the service. It is clearly proven that he was a healthy man when he entered the Army, and that when discharged his health was greatly impaired, and that it continued to grow worse until his death. The proof on this point is chiefly that of General L. Wallace, his commander, and other officers who were personally well acquainted with him, and of the physicians who attended him, the latter giving it as their opinion, under oath, that the disease of which he died was contracted in the service.

The committee are of the opinion that although the evidence is clear on the points named, yet it is unsatisfactory; and as the applicant has a husband living, it would be improper to grant a pension.

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42D CONGRESS, 3d Session. | SENATE. | REPORT No. 477.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill S. 1065.]

The Committee on Pensions to whom was referred the bill (S. 1065) granting a pension to Charles J. Hanson, submit the following report:

The applicant enlisted as a private in Company K, Fifth Maryland Regiment Infantry Volunteers, October 16, 1861; was discharged June 20, 1862. Proof shows that in consequence of cold and exposure in the line of duty at Camp Hoffman, Baltimore, he was taken sick with typhoid fever, and was subsequently paralyzed to such an extent as to materially injure his mind and to incapacitate him for life for physical labor. He afterward, in great part, recovered the powers of his mind, but on this account and his physical condition allowed the time to pass in which his application for pension should have been made to entitle him to its benefits from date of discharge. The facts are sworn to by the colonel and surgeon of the regiment in which he served.

He draws a pension of $15 per month, commenced September 3, 1870, as shown by copy of Commissioner of Pension's notice herewith filed. The committee report against granting the relief asked, and ask to be discharged from further consideration of the same.

O

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 478.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3817.]

The Committee on Pensions, to whom was referred the bill (H. R. 3817) granting a pension to George W. Bradley, submit the following report:

The evidence in this case is very meager.

1. The certificate of Mr. Bradley's disability, and the order of discharge founded thereon.

2. The certificate of an examining surgeon dated March 17, 1863.

3. The certificate of Edward Gratz, lieutenant commanding the company, dated February 22, 1863.

4. The declaration (not sworn to) of the claimant, made on 9th of April, 1863.

We now consider these in their order:

1. The first describes Bradley as a private in Company H, One hundred and twenty-first Regiment Pennsylvania Infantry, who enlisted on the 9th day of August, 1863, at the age of 44 years, to serve three years. A surgeon of the United States Army certified that he found him incapable of performing the duties of a soldier, because of chronic rheumatism, not incident to, but aggravated by, service, and that he was admitted to the hospital on account of paralysis of all his limbs; that he was evidently superannuated, and too much enfeebled for service, and that the soldier reported himself as 54 years of age. Then follows the discharge of February 5, 1863. It will be seen there is a discrepancy in the two statements of ten years in the age of the soldier.

2. The examining surgeon, on the 17th March, 1863, who examined Bradley, certifies that he was at that time one-half incapacitated for obtaining his subsistence by manual labor from chronic diarrhea, and expresses his belief that the disability was contracted in the service, and was temporary. For a more particular description of the applicant's condition, he says that Bradley stated that he was attacked with diarrhea in October, 1862, while at Berlin, and that after being under medical treatment for some time, without much relief, he was discharged; that it still troubled him a good deal, and that he was rendered by it almost wholly unfit for doing anything toward his support. The surgeon then describes him as pallid-looking, and quite weak, and as complaining of frequent pain and swelling of abdomen, and expresses the opinion that, under good nursing and medical treatment, he ought to recover in the course of a few months.

3. The certificate of Lieutenant Gratz is that the soldier contracted the disease of rheumatism and paralysis while on march from Sharpsburgh to Berlin on or about October 26, 1862, and on account of which he was discharged on the 5th day of February, 1863, at Baltimore, "for disability and inability caused by same disease."

4. The applicant himself says that, while on the march above described, "he received and contracted diseases of rheumatism, diarrhea, and paralysis."

It will be noticed that the medical examiner who gave the above certificate, No. 2, alludes to no other disease except that of diarrhea, and this is the latest medical testimony furnished, which was given nearly ten years since. What is the present condition of the soldier's health we have no means of knowing.

The record evidence is that he was discharged for chronic rheumatism, and that this was not incident to the service, but aggravated by the service, and because he was evidently superannuated.

The committee are unable to say, from the condition of the proofs, that Mr. Bradley is entitled to the benefit of a pension. It appears that his case has been at the Pension-Office and rejected.

The committee recommend that the bill be indefinitely postponed.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 479.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3803.]

The Committee on Pensions, to whom was referred the bill (H. R. 3803) granting a pension to James C. Bates, of Indiana, submit the following report:

The facts in this case are brief.

When General Morgan, in July, 1863, crossed the Ohio River with his mounted troops, and began his raid through Indiana, the news was telegraphed by the governor, and volunteers flocked to Indianapolis, the capital of the State, from every direction, and were organized into regiments and sent in pursuit. There was at that time a State military organization known as the Indiana Legion, composed of several regiments gotten up for home defense against incursions from over the borders.

James C. Bates, the beneficiary under the bill, was a first sergeant in Company I of one of these regiments. Early in July, 1863, this company was called into active service by the governor of the State to repel this invasion or raid of Morgan, and he accompanied it to Indianapolis, where it was incorporated with a regiment commanded by Colonel K. G. Shryock. The regiment was marched to Lawrenceburgh, a city situated on the north bank of the Ohio, forty miles below Cincinnati. On the evening of the 14th of July it was thought an attack on the city by Morgan's men was imminent, and the regiment was moved to the outskirts of the city after dark, when it was fired into by a body of Union troops, who mistook the regiment for the enemy. Bates was struck by a minie-ball in the right elbow, and his arm so shattered that it became necessary to amputate it, which was done at the shoulder-joint.

These facts are established by unquestionable testimony, and the merit of the claim is commended by eminent gentlemen of the State.

The case is not within the letter of the pension-law.

Mr. Bates was never in the service of the United States. He belonged to a purely home organization, and met his accident when it was called out to expel the enemy from the State.

The majority of the committee are opposed to the passage of the bill.

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42D CONGRESS, 3d Session. | SENATE. | REPORT No. 480.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

(To accompany bill H. R. 3819.)

The Committee on Pensions, to whom was referred the bill (H. R. 3819) granting a pension to Thomas Smith, submit the following report:

Mr. Smith applied for a pension on the ground that he lost his eyesight while in the service of the United States. His claim was rejected on the ground that at the time of the alleged disability he was a citizen teamster in the service of the United States in the Quartermaster's Department and not an enlisted teamster.

He now appeals to Congress for relief, and adds another cause, viz: that in the battle of Nashville he lost his only son, James Smith, a private in Company K, Tenth Tennessee Cavalry, whose merit as a soldier is highly commended by the colonel of the regiment in which he served.

The proof is he is about sixty years of age, poor and blind.

A pension is recommended by several gentlemen holding military and civil offices, among others W. G. Brownlow, then military governor of Tennessee, the lieutenant-colonel of the Eighth and the colonel of the Tenth Tennessee Cavalry Regiments, and by Gordon Granger, Brevet Major-General United States Army.

The merit of the unofficial names attached to the petition is certified to by the Hon. Horace Maynard.

Thomas Smith was not dependent upon his son at the time of the latter's death, although now he is needy; for this reason he cannot obtain a pension at the Pension-Office. But it is proved that he is now in destitute circumstances, and at the head of a large family of unmarried daughters, and dependent upon charity for support.

The majority of the committee are opposed to the passage of the bill because Mr. Smith was not dependent upon his son at the time of the latter's death.

O

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 481.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 21, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3941.]

The Committee on Claims, to whom was referred the bill (H. R. 3941) for the relief of Joseph B. Rothchild, of Findley, Ohio, submit the following report:

This bill credits the account of Mr. Rothchild, as collector of internal revenue for the fifth collection-district of Ohio, with the sum of $1,500, being the amount of money belonging to the United States, stolen from a safe, where it was deposited by him for greater security.

The evidence shows that Mr. Rothchild lived at Findley, and was internal-revenue collector for the above district, and that on the 26th day of April, 1872, he received by express from David Thompson, his deputy in and for Harden County, the sum of $1,500, which he placed in a safe in his office. There was no train leaving that day, after the receipt of this money, for Cincinnati, to which place the claimant was in the habit of sending the public moneys to be placed in the United States depository there. The claimant's safe was not deemed by him proof against either fire or burglars. For this reason, and because there was to be next day in Findley a large show, attracting many people, Mr. Rothchild, for greater security, changed the deposit of this money from his own safe to that of Davis Bros. & Co. These gentlemen carried on a store in the rooms immediately below that of the claimant, on the lower floor of the building, and had a large safe, manufactured by Hall & Co., of Cincinnati, with combination locks, and considered burglar and fire proof. The deposit consisted of two packages, one of $500 the other of $1,000. This occurred on the night of Friday, April 26, the one immediately preceding the menagerie exhibition.

The safe of this business firm was situated inside of a railing in the store-room, and at the side of the desk. Mr. Detwiler, who received and deposited the money in the safe, was one of the partners and book-keeper and cashier of the firm, and during business hours was generally present at the desk and safe. At such times the outer doors of the safe were unlocked and open, as frequent access was necessary to the books, papers, and moneys kept there during such business hours.

Thus stood things up to the morning of show-day—Saturday. This was a busy day in the store of Davis Bros. & Co. It was crowded with customers.

Mr. Detwiler could not always be at his desk. He was absent at one time for ten minutes. The outer door of the safe being open, and the keys, among which was one to the inner part of the safe, were hanging upon a key-ring from a drawer in the desk near the safe. As he ex-

pected to shortly return, Mr. Detwiler did not close the outer door of the safe. By some means, and some person or persons unknown, the money was abstracted from the safe during his absence. The loss was discovered in thirty minutes afterward, and the partners took steps to discover the thief, and sent to Cleveland for a detective; but neither thief nor money has been found. Mr. Rothchild has made good this money to the Government, and now prays to be refunded in the amount of his loss.

Mr. Detwiler's affidavit shows that Rothchild stated the amount of the deposit when he brought the two packages, and that no one except the partners were allowed access to the safe. He further says that the loss occurred without any fault or negligence on the part of the firm or Rothchild.

William L. Davis, one of the members of the firm, testifies to the deposit of the packages, and the reason expressed by Mr. Rothchild why he wished to substitute their safe for his own, because of the large crowd expected in town next day.

As he was not in the store until noon on Saturday, the theft occurred before he came; and he does not testify to the circumstances, but speaks of the coming in of the sheriff and the detective to ferret out the loss.

John W. Davis, another member of the firm, also testifies to the crowded condition of the store on Saturday, Mr. Detwiler's absence from his post a few minutes, and believes the theft was committed by some stranger during that absence, who had obtained information of the contents.

Another witness was in the store on Friday night, at 8½ o'clock, when Rothchild came in and requested permission to deposit the packages. Several other persons were in the store at the time. The amount of the packages, $1,500, was spoken of.

It does not appear, from the evidence, what other money, if any, was in the safe at the time the larceny occurred. No other loss is spoken of. Nor is there any evidence showing that the packages were ever seen by any one after the deposit the night previous.

Nor is there any evidence at what time the train passed toward Cincinnati through Findley. It does not appear whether there was any express company office in Findley, nor whether the claimant was in the habit of sending his money to Cincinnati by such company. One witness testifies to the good character for integrity of the members of the firm of Davis Bros. & Co.

This is the whole of the case as the claimant has seen proper to present it.

It would have been more satisfactory had the claimant informed us whether the firm lost any money or property from the safe; whether there were other deposits there, and whether they were stolen; at what hour the train left Findley for Cincinnati; why he did not place the money in the hands of the express company, if such company had an office in the town, and who were the parties in the store on the night previous when he announced the amount of the money he was depositing. As the case is made the committee are constrained to report adversely to the passage of the bill.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 482.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 21, 1873.—Ordered to be printed.

Mr. STEWART submitted the following

REPORT:

[To accompany bill H. R. 1665.]

The committee to whom was referred House bill 1665, *entitled "An act to enable honorably discharged soldiers and sailors, their widows and orphan children, to acquire homesteads on the public lands of the United States," have had the same under consideration, and submit the following adverse report:*

That this bill, if enacted into a law, would provide for the disposition of at least three hundred and twenty millions of acres of selected public lands. That the whole area of the public domain, exclusive of Alaska, is less than one thousand millions of acres. From this must be deducted as valueless, or unsuitable for settlement, or reserved by law for other purposes, the lakes, the swamp-land grant of 1850, the railroad grants yet unpatented, the 16th and 36th sections of each township granted for common schools, the Indian Territory and other reservations for the Indians, the mineral lands, the uninhabitable mountains, the alkali deserts, and all other waste lands.

These deductions are variously estimated at from two-thirds to three-fourths of the whole amount of the public domain, or from six hundred and sixty-six millions to seven hundred and fifty millions of acres. This would leave from two hundred and fifty to two hundred and thirty-four millions of acres of public lands fit to be occupied by settlers. The highest, and probably a very exaggerated, estimate of the amount of such lands is four hundred millions of acres. If the three hundred and twenty millions of acres required to satisfy the terms of the bill under consideration could be found, exclusive of the necessary deduction above noted, all reasonable expectations would be answered. A minute discussion of the amount of the arable lands in the public domain is, however, unnecessary. It is quite evident that most, if not all, the public lands suitable for cultivation would be required to satisfy the terms of the bill, and there would be a strong probability that those who were unfortunate enough to be last would find no lands to enter.

The question is then squarely presented: Shall all legislation of Congress for homestead and pre-emption settlements be superseded, and in effect repealed, on account of the very uncertain benefit that the proposed law might confer on the soldiers and sailors?

The laws which would be superseded are, in the first place, the pre-emption laws. These laws provide that each head of a family, being a citizen of the United States, or a person who has declared his intention to become such, may enter upon the public lands, make improvements

thereon, and purchase 160 acres, outside of railroad and other grants, at the rate of $1.25 per acre, or of the even sections reserved within such grants, at the rate of $2.50 per acre.

The homestead laws would also be superseded. It is provided by these laws that the same class of persons who are entitled to make pre-emptions may enter upon the minimum lands, so called, outside of railroad grants, and, after five years residence thereon, receive title to 160 acres without the payment of the $1.25 per acre demanded of pre-emptioners. Or of the double minimum lands within the limits of railroad and other grants, 80 acres may be obtained on the same terms. These homestead laws have been amended to provide further that soldiers and sailors described in the bill under consideration may enter upon the public lands and receive title without payment, after a residence equal in time to the five years required of other homestead settlers, reduced by the length of each soldier's or sailor's service in the Army or Navy, provided such reduction shall not in any case make the length of residence required less than one year. And the soldiers and sailors are given the additional privilege of securing 160 acres of the double minimum lands within the limits of the railroad grants where other homestead settlers are confined to 80 acres. If the policy of the Government is to furnish homes for the soldiers and sailors, the brief time of residence required upon the land selected for a permanent home before a patent can be obtained, can be no hardship or serious inconvenience. The legislation of last session removed every obstruction which the homestead laws were supposed to throw in the way of the easy acquisition of 160 acres of public lands for a home by each soldier and sailor provided for in this bill, exacting only a short residence on the land to protect both the Government and the settler against the speculator.

It is believed by the committee that the last step has been taken in this direction, unless all the vitality of the homestead and pre-emption laws is to be destroyed.

The bill under consideration forbids the sale of the lands previous to the issue of the patents. The practical operation of this provision, if it could be executed, would be manifestly unequal, and other legislation providing for warrants, as in case of the Mexican war and in other cases, would shortly follow. The patent cannot be obtained until the lands have been surveyed. About 8,000,000 acres per year is the quantity annually surveyed, and it satisfies the demand for settlement. At this rate of survey, all the lands each year surveyed being absorbed by the soldiers and sailors, forty years would be required to patent the 320,000,000 of acres, estimated to be necessary to satisfy the law that is proposed. This would postpone the benefits designed to be conferred by the law, for the great mass of the soldiers, all the term of their natural lives.

But suppose that Congress should make sufficient appropriation to provide for the immediate, or most rapid possible survey of all the public lands, and between three and four hundred million acres should be patented within the next five or six years. This immense quantity of land all being on the market at once, and the greater part of it being located in such remote regions as not to be available for settlement for many years, but subject to immediate taxation, its price in the market would be merely nominal, if, indeed, it could be salable at all.

In case the system of bounty-land warrants were resorted to in order to equalize the benefits conferred by the bill—and, as above remarked, this course seems the most probable one to be adopted—warrants cover-

ing all the public domain fit for settlement would be thrown upon the market. As not more than 8,000,000 per year would be required for settlement, a large part, and, indeed, the larger part, of the warrants must be held by somebody for near a generation; and manifestly the discount upon them would be very great, reducing their value to a trifling sum. The warrants issued to the soldiers of the Mexican war and under the acts of 1850, 1852, and 1855, covering sixty and a quarter millions of acres, have not yet, in a period of more than twenty years, been located and absorbed. The number of warrants thrown on the market, under operation of the laws last mentioned, reduced the price of each warrant to a very low figure, often as low as 40 cents per acre; and now that the supply is nearly exhausted, the market value has not risen much above $1 per acre.

It is fair to presume that the law of demand and supply will operate upon the price of warrants in the future as in the past, and whether the system of bounty warrants be adopted, as in former cases, or the restriction against selling the lands in advance of the issue of patents, as proposed in the bill, be rigidly maintained, the result will be that the amount of money received by each soldier or sailor for the sale of his warrant or of his land would be very small, probably not exceeding the cost to the Government of surveying.

On the other hand the public domain would be transferred to speculators, with whom every pioneer, whether native-born or immigrant, would be compelled to negotiate for a home. It is manifest that no scheme whereby the soldiers and sailors are to be benefited by the disposition of the public lands without settlement by them, can be effective without the immediate sale of the lands, either by the beneficiaries themselves, or by the Government for them, and it is also obvious that the immediate sale of all the public lands, however effected, must be made at an enormous sacrifice, and must destroy the policy of the Government to furnish cheap homes to the people.

The money that the Government must expend to carry out any scheme for the immediate disposal of the public bonds would, without doubt, be as much as it would receive as the result of such a forced sale. Would it not then be far better that the Government should give this amount of money, and a great deal more, directly to the soldiers and sailors, and retain the lands for settlement under existing laws?

The committee do not underrate the great services of the soldiers and sailors of the war of the rebellion, in preserving our free institutions. Congress has endeavored to reward them in some degree by bounties and pensions, in addition to their regular pay, and has so modified the land-laws as to give each of them who desires to settle upon the public lands a free home with the least possible inconvenience.

But the aid hereafter to be granted to them should be extended in such a manner, under laws so guarded, that the benefit derived by them should equal the full value and cost to the Government of whatever it gives, without destroying its homestead and pre-emption policy for the disposition of the public lands for actual settlement.

The letter of the Commissioner of the General Land-Office, hereto attached, exhibits quite an extended history of the legislation upon this and kindred subjects from the foundation of the Government, and furnishes many illustrations against the policy of the proposed bill, together with the views of the Commissioner upon the same question. The committee commends this letter to the careful perusal of all who take an interest in the questions pertaining to the policy of the Government, in the disposition of the public lands.

A letter written by Hon. George W. Julian, for a long time chairman of the Committee on the Public Lands in the House of Representatives, who has given this subject much consideration, is appended; and the committee ask that it may be published with this report. For convenience of reference the bill (1665) is also attached, to be printed with the other papers accompanying the report.

DEPARTMENT OF THE INTERIOR, GENERAL LAND-OFFICE,
Washington, D. C., February 13, 1873.

SIR: I am in receipt of your letter of 28th ultimo, requesting—

First, a brief history of the legislation of Congress relating to bounty-land warrants, with references to the various acts;

Second, the amount of land-warrants issued from the beginning until now;

Third, the amount of land located with land-warrants;

Fourth, the amount of land located by the beneficiaries themselves, and the amount located by assignees, &c.;

Fifth, the laws under which Sioux Indian half-breed scrip was issued, and the regulations under which speculators were enabled to avail themselves of the same;

Sixth, the acts of Congress authorizing the issue of agricultural-college scrip; the amount of said scrip located, and what has been the effect thereof; and,

Seventh, my views upon House bill 1665.

In reply I have the honor to report—

First. That the military bounty-land system of the United States had its origin in the following resolution of the Continental Congress, adopted September 16, 1776:

"*Resolved*, That Congress make provision for granting lands in the following proportions to the officers and soldiers who shall so engage in the service, and continue therein to the close of the war, or until discharged by Congress, and the representatives of such officers and soldiers as shall be slain by the enemy.

"Such lands to be provided by the United States, and whatever expense shall be necessary to procure such land, the said expense shall be paid and borne by the States in the same proportion as the other expenses of the war, viz:

"To a colonel, 500 acres; to a lieutenant-colonel, 450; to a major, 400; to a captain, 300; to a lieutenant, 200; to an ensign, 150; each non-commissioned officer and soldier, 100."

This resolution was of the nature of a promissory bid for volunteers, which was extended and qualified from time to time by various resolutions, notably that of September 20, 1776, wherein it was—

"*Resolved*, That Congress will not grant lands to any person or persons claiming under the assignment of an officer or soldier."

The first provision for the satisfaction of military bounty-land claims occurs in the ordinance of May 20, 1785, "for ascertaining the mode of disposing of lands in the western territory." It is therein provided that as soon as seven ranges of townships and fractional parts of townships shall have been surveyed, plats of the same shall be transmitted to "the board of treasury," and there be made of record; that "the Secretary of War shall have recourse thereto, and shall take by lot therefrom a number of townships and fractional parts of townships, as well from those to be sold entire as from those to be sold in lots, as will be equal to one-seventh part of the whole of such seven ranges, as nearly as may be, for the use of the late Continental Army; and he shall make a similar draft, from time to time, until a sufficient quantity is drawn to satisfy the same, to be applied in manner hereinafter directed."

A subsequent clause of the ordinance directs in detail the manner in which bounty-land claims arising under the resolutions of September 16 and 18, 1776, and August 12, 1780, shall be adjusted and satisfied.

Following the said ordinance, there occurs a mass of resolutions, ordinances, and acts, of various dates, providing for increased issues of military bounty-land warrants to revolutionary soldiers, Canadian refugees, soldiers of the State of Virginia, &c., &c., upon principles and by methods long since obsolete in the practice of this office. As these principles and methods were exceedingly complicated, and have but little, if any, relevancy to the points which I apprehend you desire to present to the committee, I proceed at once to the act of May 6, 1812, (U. S. Stats., vol. 2, p. 728,) wherein is authorized the survey of what was known as the military district in the Territories of Michigan, Illinois, and Arkansas, the same, except salt-springs, lead-mines, and lands adjacent thereto, and section sixteen to be set apart for the purpose of satisfying the bounties of 160 acres of land promised to the officers and soldiers of the United States, their heirs and legal representatives, by the acts of December 24, 1811, and January 11, 1812, (2 Stats., pp. 669 and 672;) also providing that the Secretary of War shall issue warrants therefor only in the names of the persons thus entitled, to be applied for by them, or their representatives, "within five years after the said persons shall

have become entitled thereto; and the said warrants shall not be assignable or transferable in any manner whatever." The warrants thus issued were required to be presented to the Secretary of the Treasury, "or such other officer as may at the time have by law the superintendence of the General Land-Office," whereupon the beneficiary was entitled to draw by lot one of the quarter-sections surveyed by virtue of the first section of the act. Thereafter a patent was required to issue to the party without fee. Section 4 of the said act reiterates the proviso, "That no claim for the military land-bounties aforesaid shall be assignable," &c.

The acts of December 12, 1812; January 20, 1813; July 5, 1813; January 28, 1814; February 24, 1814, increase the number of beneficiaries, and the act of July 5, 1813, extends the time within which warrants are required to be located.

The act of December 16, 1814, increased the amount of bounty-land to 320 acres in cases of future enlistment.

The acts of April 16, 1816; March 9, 1818; February 24, 1819; March 22, 1821; March 3, 1823; May 26, 1824; March 23, 1825; March 2, 1827; February 5, 1829; July 13, 1832; and January 27, 1835, still further increased the issue and extended the time for locating bounty-land warrants.

The act of May 30, 1830, provided for the issue of land-scrip, in lieu of unlocated Virginia and other revolutionary bounty-land warrants, the same to be assignable.

The act of January 27, 1835, extended the time for issuing revolutionary bounty-land warrants to January 1, 1840.

The act of July 27, 1842, repealed the restriction requiring all war of 1812 warrants to be located in the military district, and made the same applicable to any public lands subject to private entry, provided such warrants shall be located within five years from date. A provision was appended to this act prohibiting the assignment of certificates of location.

The act of February 11, 1847, (9 Stat., p. 123,) provided for the issue of non-assignable warrants of 160 acres each to certain non-commissioned officers, privates, &c., of the Mexican war, and of 40 acres each to certain others of the same war, and the distinction to be determined by certain circumstances therein specified. The said warrants were required to be located by the warrantee or his heirs-at-law.

The act of September 28, 1850, (9 Stat. p. 520,) provided for the issue of non-assignable warrants to non-commissioned officers, musicians, or privates, &c., of the war of 1812, or of any Indian war since 1790, and also to each of the commissioned officers who were engaged in the war with Mexico. Those who engaged to serve twelve months, or during the war, and who actually served nine months, to receive 160 acres; those who engaged to serve six months, and actually served four months, to receive 80 acres; and those who engaged to serve for any, or an indefinite period, and actually served one month, to receive 40 acres.

The act of March 22, 1852, provided "that all warrants for military-bounty lands which have been or may hereafter be issued under any law of the United States, and all valid locations of the same which have been or may hereafter be made, are hereby declared to be assignable, by deed or instrument of writing, made and executed after the taking effect of this act, according to such form and pursuant to such regulations as may be prescribed by the Commissioner of the General Land-Office, so as to vest the assignee with all the rights of the original owner of the warrant or location." This act also provided for the application of bounty-land warrants to the payment of pre-emption claims, with the stipulation that, in cases where such claims covered lands subject to entry at a greater minimum than $1.25 per acre, the difference in price should be paid in cash.

Section 2 of the same directs that upon the location of all warrants issued since February 11, 1847, the registers and receivers of United States land-offices shall charge a fee or commission equivalent to the percentage to which they are entitled by law for sales of the public lands for cash, at the rate of $1.25 per acre, the same to be paid by the assignees or holders of such warrants.

Section 4 of the said act provides that the militia or volunteers or State troops of any State or Territory who were called into military service, and whose services have been paid by the United States subsequent to the 18th June, 1812, the officers and soldiers of such militia, &c., shall be entitled to all the benefits of the act of September 28, 1850.

The act of March 3, 1855, (10 Stats., p. 701,) provides for the issue of warrants graduated as to area by a prescribed scale, to various classes of officers, soldiers, sailors, marines, clerks, (in the Navy,) militia, wagon-masters, teamsters, &c., &c., who had served in any of the wars in which this country had been engaged since 1790.

Section 4 of the same provided "that said certificates or warrants may be assigned, transferred, and located by the warrantees, their assignees, or their heirs at law, according to the provisions of existing laws regulating the assignment, transfer, and location of bounty-land warrants."

This act closes the series of congressional bounty-land warrant grants, but the issue of warrants still continues thereunder from time to time.

The computation of the number of warrants, or rather of acres comprised in the same, issued under the various acts, extends only to June 30, 1872. At that date the records of the Pension-Office made the following exhibit:

	Acres.
Under the resolution of September 16, 1776	2,095,120
Under act of February 18, 1801, (Canadian refugees)	57,860
Under acts of 1830, 1832, 1833, 1835, and 1852	2,459,511
Under act of August 10, 1790, (Virginia military district, Ohio)	3,669,848
Under act of May 6, 1812, (war of 1812)	4,846,720
Under act of March 5, 1816, (Canadian volunteers)	75,792
Under acts of 1847, 1850, 1852, and 1855	60,259,110
	73,463,961
Amount issued in 1870–'71	784,810
Amount issued in 1871–'72	259,010
Aggregate of issues to June 30, 1872	73,989,761
Amount located to June 30, 1872	70,801,050
Amount lost, destroyed, and unlocated	3,188,711

The above is necessarily an approximate estimate, in so far as relates to the number of acres located. It is believed, however, that, did the exigencies of the case permit of an exact statement, the result would show no material difference.

By this hasty and meager sketch, which is, indeed, scarcely more than a chronological index to the history of the legislation of Congress in relation to bounty-land warrants, extending over a period of eighty years, you will perceive that during the comparatively early days of the Republic this class of benefits was confined to the soldiers themselves, or their immediate heirs. But as the nation grew, and its material interests extended and multiplied, the public lands became gradually the subject of speculation, and simultaneously the obstacles which Congress had from the first wisely interposed against the promiscuous use of bounty-land warrants, began to give way under the pressure of speculative influence, and the records of this office show that, long before Congress had in any degree abated the stringency of its prohibition against the transfer of these obligations of the Government, a practice had grown up under which these warrants illegally passed into second and third hands, were illegally located, and such locations recognized and passed to patent. Hundreds of thousands of acres of the public lands were disposed of in this illegal manner, until, finally, Congress succumbed to the speculative pressure so far as to declare, in the act of May 30, 1830, (4 Stats., p. 422,) that all holders of unsatisfied Virginia military warrants and other United States revolutionary bounty-land warrants shall be entitled to receive scrip in view thereof, *the same to be assignable*, by indorsement thereon, attested by two witnesses, and applicable to public lands subject to private entry.

Twenty years later all barriers gave way before the demands of speculation, and Congress, under date of March 22, 1852, (10 Stats., p. 3,) declared "that all warrants for military bounty-lands, which have been or may hereafter be issued under any law of the United States," should be assignable.

From that date to the present time warrants have had an unrestricted sale in the market, and have been disposed of (often before the issue thereof) for greater or less sums, *but always at a heavy discount on the cash price of the public lands.* Indeed, cases have come to the notice of this office within a few years in which the amount of consideration for the sale has been specified in the assignment as low as $30 for a 160-acre warrant, being a discount of $170 from the minimum price of lands.

It would be quite impossible, by anything less than a laborious and protracted examination of the records of the office, to form a correct estimate of what proportion of bounty-land warrants has been located by the beneficiaries themselves, or their heirs, and what proportion has been made to serve the purposes of speculation; I believe, however, the official records will sustain the assertion that, since the passage of the act of March 22, 1852, the proportion of locations of warrants by the beneficiaries thereof, or their heirs, *has not been as one to a hundred.*

I would remark here that, although the lands located in Illinois, in satisfaction of the warrants issued under the act of May 6, 1812, were in a very large measure drawn by lot, under the supervision of the Secretary of War, and the patents issued on the same day, and either delivered to the soldier in person or transmitted directly to him, yet numerous instances have incidentally come to the knowledge of this office in which the beneficiaries have been shown to have never gone upon the lands, never paid the taxes, and to have never made any effort to maintain their titles thereto. It is safe to say that thousands of acres of most valuable lands, in the military district of Illinois, are to-day held by tenures derived from tax-titles half a century old.

In thus reviewing the history of our bounty-land grants it has been impressed upon

my mind, more and more forcibly at each step of my progress, *first*, that, as a general proposition, the soldiers of the United States armies have never appreciated national benefactions in the form of public lands; *second*, that the bounty-land system has failed to answer, in any satisfactory degree, the design of its projectors, either as a means of securing the settlement of the public lands or of compensating our soldiers. It is manifest that the soldiers as a class have always preferred to sacrifice these valuable gifts, at an enormous discount, *for a sum of money in hand*, rather than to avail themselves of the greater prospective benefits to be derived from the settlement and cultivation of the public lands. The interests of the Government have undoubtedly been sacrificed to the extent of millions of dollars, which, in the form of these discounts, have been diverted from the soldier to the speculator.

Agricultural-college scrip.

Under the provisions of the acts of July 2, 1862, (12 Stats., p. 503,) April 14, 1864, (13 Stats., p. 47,) July 23, 1866, (14 Stats., p. 238,) agricultural-college scrip has been issued as follows:

	Acres.
Vermont accepted, December 1, 1862	150,000
Connecticut accepted, December 24, 1862	180,000
Rhode Island accepted, January 27, 1863	120,000
Kentucky accepted, January 27, 1863	330,000
Illinois accepted, February 14, 1863	480,000
New York accepted, March 14, 1863	990,000
Maine accepted, March 25, 1863	210,000
Pennsylvania accepted, April 1, 1863	780,000
New Jersey accepted, April 14, 1863	210,000
Massachusetts accepted, April 18, 1863	360,000
New Hampshire accepted, July 9, 1863	150,000
West Virginia accepted, October 3, 1863	150,000
Ohio accepted, February 9, 1864	630,000
Maryland accepted, February 17, 1864	210,000
Indiana accepted, March 6, 1865	390,000
Delaware accepted, February 7, 1867	90,000
Tennessee accepted, February 18, 1868	300,000
North Carolina accepted, February 24, 1866	270,000
Louisiana accepted, March 5, 1869	210,000
Virginia accepted, February 5, 1864	300,000
Georgia accepted, March 10, 1866	270,000
Texas accepted, November 1, 1866	180,000
Mississippi accepted, October 30, 1866	210,000
South Carolina accepted, December 10, 1868	180,000
Alabama accepted, December 31, 1868	240,000
Arkansas accepted, January 31, 1867	150,000
Florida accepted, January 30, 1869	90,000
Aggregate issue of scrip issued	7,830,000

The remaining States selected lands "in place," within the limits of their own boundaries, under the provisions of section 2 of the said act of July 2, 1862.

The records of this office show locations of the said scrip as follows:

	Acres.
For fiscal year ended June 30, 1864	214,418.14
For fiscal year ended June 30, 1865	460,130.27
For fiscal year ended June 30, 1866	615,066.60
For fiscal year ended June 30, 1867	2,420,072.73
For fiscal year ended June 30, 1868	1,942,889.08
For fiscal year ended June 30, 1869	352,664.86
For fiscal year ended June 30, 1870	192,848.21
For fiscal year ended June 30, 1871	192,688.21
For fiscal year ended June 30, 1872	693,613.37
Aggregate of scrip located	7,084,391.47
Number of acres unlocated to June 30, 1872	745,608.53
	7,830,000.00

When agricultural-college scrip first issued upon the market, the only restrictions to

its use were, that no location should be made until after the first day of January, 1863: that no State should be permitted to locate its scrip outside of its own boundaries; that locations of the same should not exceed 1,000,000 acres in any one State or Territory; and that it should be applicable only to lands subject to private entry at the minimum price of $1.25 per acre.

The scrip was offered for sale in the market at from 60 cents to 65 cents per acre, and as there were at that date large bodies of public lands in Wisconsin, Minnesota, Kansas, Nebraska, and California, of the class to which it was legally applicable, it was eagerly sought, and within a space of three or four years, vast quantities were located by speculators upon valuable "pine-lands," in the two first-named States, and upon the choicest agricultural lands in the others. Indeed, the maximum of locations, as fixed by the law, was exceeded in the State of Wisconsin before the close of the year 1867, and the excessive locations, amounting to some 80,000 acres, were legalized by the act of May 5, 1870, (16 Stats., p. 116.)

The evil results of this wholesale absorption of entire townships of the public lands in the interests of speculation became so manifest that, under date of July 27, 1868, (15 Stats., p. 227,) Congress passed an act providing "that in no case shall more than three sections of public lands of the United States be entered in any one township by scrip issued to any State under the act approved July 2, 1862, for the establishment of an agricultural college therein."

As the Government, in the interests of actual settlers, changed its public-land policy at about this period, and declined to proclaim further offerings at public sale, and as the class of "offered" lands (to which the locations of this scrip were restricted) had become pretty thoroughly culled, the traffic in scrip declined, until Congress, under date of July 1, 1870, (16 Stats., p. 186,) enlarged the scope and greatly enhanced the value thereof by an act amendatory of the act of July 27, 1868, in which it was provided "that all such agricultural-college scrip shall be received from actual settlers in payment of pre-emption claims in the same manner and to the same extent as is now authorized by law in case of military bounty-land warrants."

The effect of the said act of July 1, 1870, was to cause an increase of the locations of scrip during the fiscal year of 1871-'72 from 192,688 acres (which was the amount located during 1870-'71) to 693,613 acres; and the probabilities are that the locations of the current year will exhaust the entire remainder of outstanding, unsatisfied scrip, which, as shown by table herein, was only 745,608 acres on June 30 last.

Although it is not a matter of official record, I may state that for some years past a monopoly has been maintained in this scrip, one individual having latterly purchased the apportionment of each State in its entirety, as issued from this Office. The latest quotations of the market price, at first hands, I understand to be $175 for a single piece, or 160 acres; $170 per piece for four pieces or more, of 160 acres each; and special terms for larger quantities.

Before leaving this branch of my report permit me to present, in illustration of the practical results of the issue of agricultural-college scrip, an extract from a letter received at this office from Ezra Cornell, of New York, under date of January 15, 1872:

"The State of New York received from Government 990,000 acres of land represented by 'college land scrip.' The proceeds of the sale of this scrip was donated by the State of New York to the Cornell University on the condition that I, Ezra Cornell, would give to the said university $500,000. I accepted the proffer and paid over the half million. College land scrip was selling at the time at fifty to sixty cents per acre. I believe that *pine-land* was worth much more than that; and I was informed that, with the scrip, I had the legal right to locate and enter *the very best land* that Uncle Sam held for sale at ten shillings per acre. I therefore purchased the scrip of the State at sixty cents per acre, and employed the best men I could find to go to Wisconsin and go into the woods and hunt up for me *the very best pine-lands there was*, and at the same time they were instructed to mind their business, and not to go brawling about the streets so everybody would know what they were about. My men thus went to work and hunted up half a million of acres of land in the Eau Claire district, which they assured me was the very best in the State, and I had it entered with college scrip. One-fifth of this was farming lands and four-fifths pine-lands. When this land is sold the profits arising therefrom will be paid over to the Cornell University, not even retaining a dime for my own services."

I may add that these lands are probably worth to-day not less than from $5 to $15 per acre.

While the rare philanthropy of Mr. Cornell in bestowing the profits of these locations upon so worthy an object is entitled to the highest commendation, yet the history of the transaction illustrates none the less forcibly the enormous scope for selfish speculation afforded by this scrip, and which has been only partially contracted by the act of July 27, 1868, and the cessation of offerings of the public lands.

Sioux half-breed scrip.

Relative to Sioux half-breed scrip, I have the honor to report that, under the act

of July 17, 1854, (10 Stats., p. 304,) the President was authorized to cause the issue of scrip to the half-breeds or mixed-bloods of the Dakota or Sioux nation of Indians, who were entitled to an interest in "the tract of land lying on the west side of Lake Pepin and the Mississippi River, in the (then) Territory of Minnesota, which was set apart and granted for their use and benefit by the ninth article of the treaty of Prairie du Chien of July 15, 1830; and for that purpose he is hereby authorized to cause to be issued to said persons, on the execution by them or by the legal representatives of such as may be minors, of a full and complete relinquishment by them to the United States of all their right, title, and interest, according to such form as shall be prescribed by the Commissioner of the General Land-Office, in and to said tract of land or reservation, certificates of scrip for the same amount of land to which each individual would be entitled in case of a division of the said grant or reservation, *pro rata*, among the claimants, which said certificates or scrip may be located upon any of the lands within said reservation not now occupied by actual and *bona-fide* settlers of the half-breeds or mixed-bloods, or such other persons as have gone into said Territory by authority of law, or upon any other unoccupied lands, subject to pre-emption or private sale, or upon any other unsurveyed lands, not reserved by Government, upon which they have respectively made improvements: *Provided*, That said certificates or scrip shall not embrace more than 640 nor less than 40 acres each, and provided that the same shall be equally apportioned, as nearly as practicable, among those entitled to an interest in said reservation: *And provided further*, That no transfer or conveyance of any of said certificates or scrip shall be valid."

Under date of February 25, 1857, the Commissioner of Indian Affairs notified this Office that, in pursuance of the provisions of the said act of July 17, 1854, he had prepared scrip for 640 persons as Dakota or Sioux half-breeds or mixed-bloods; that five pieces of scrip would be issued to each person, as follows:

Two pieces calling for 40 acres each; one piece calling for 80 acres; two pieces calling for 160 acres each; making an aggregate of 480 acres, designated, for example, No. 1 "A," for 40 acres; No. 1 "B," for 40 acres; No. 1 "C," for 80 acres; No. 1 "D," for 160 acres; No. 1 "E," for 160 acres.

Each piece of scrip bore upon its face the declaration that the same was locatable "upon any of the lands within the said reservation that were not occupied on the 17th July, 1854, by actual and *bona-fide* settlers of the said half-breeds or mixed-bloods, or such other persons as had at that date, or prior thereto, gone into said Territory by authority of law, or upon any other unoccupied lands subject to pre-emption or private sale, or upon any other unsurveyed lands, not reserved by Government, upon which they have respectively made improvements.

"*The certificate or scrip is not by law transferable, and any assignment or conveyance of the same is therefore void.*"

Under date of March 21, 1857, this Office issued a circular of instructions to the registers and receivers of the United States announcing the issue of the said scrip, describing the same, and calling particular attention to the peculiar conditions to which its use was subject, in the following words:

"Where the scrip may be located on unsurveyed land, outside of the reservation, on which the half-breed has improvements, and which is not reserved by Government, his application for location should be accompanied by a diagram and description denoting natural objects and distances, so as to fix with certainty the exact locality wanted, serve as the best notice in our power to settlers, that conflict may be avoided, and enable you, when the public surveys are made, to designate the legal subdivisions embracing the location.

"The land selected in satisfaction of a certificate of scrip must be located in the name of the party in whose favor the scrip is issued, and the location may be made by him, or her, in person, or by his or her guardian or duly authorized agent. The application should be duly attested in each case by the register and receiver."

The issue of a duplicate certificate was interdicted, and likewise the issue of a duplicate receipt, except in cases of location of fractional subdivisions where an excess of area might occur, and then *only for such excess*.

The fact that said scrip was not assignable was still further impressed upon the minds of local land-officers by the following paragraph:

"You will observe that this scrip is *not assignable*, transfers of the same being held void; consequently, each certificate, as hereinbefore stated, can only be located in the name of the half-breed; and such certificates or scrip are not to be treated as money, but located acre for acre."

Under date of February 22, 1864, this office issued a second circular (copy herewith) reciting in fuller detail, and with stronger emphasis, the conditions upon which this scrip might be located.

After the survey of the Lake Pepin reservation, it was discovered that the quantity of land embraced therein was in excess of the amount apportioned to the 640 persons hereinbefore mentioned. The Commissioner of Indian Affairs thereupon caused a supplemental issue of three pieces of scrip to each of 38 persons:

One piece calling for 40 acres.

Two pieces calling for 160 acres each.

This issue bore the date October 10, 1860, and was the final apportionment under the said act.

The intention of Congress in the said act of July 17, 1854, was obviously to make the half-breeds the exclusive recipients of all the benefits to be derived from the use of the scrip. In consideration of their relinquishment of the Lake Pepin reservation, it was designed that they, and they only, should by means of this scrip be enabled to secure immediate possession of, and ultimate title to, the choicest lands they could select from the Government possessions, whether "offered" or "unoffered," surveyed or unsurveyed. To this end, the act in the strongest terms prohibited any assignment or transfer of the scrip; and in furtherance of that object this Office taxed the limits of its authority to enforce the provisions of the act, by requiring that, in all cases, the location should be made only in the name of the half-breed, interdicting the issue of duplicate certificates or receipts, (with a view to prevent the assignment or transfer thereof,) and *invariably* causing patent to issue in the name of the scripee.

Unfortunately, the very qualities which were imparted to this scrip by Congress, for the purpose of embracing its benefits to the half-breeds, were the means of defeating that purpose, for the reason that these were the qualities which invested it with a peculiar attraction for speculators. Neither cash, nor bounty-land warrants, nor agricultural-college scrip, could enable this irrepressible class of persons to appropriate even "unoffered" lands, without fulfillment of the condition of actual settlement. Through the medium of Sioux half-breed scrip, however, speculation could not only reach "unoffered" lands, but could even anticipate the Government surveys, and seize whatever, under the description of land, appeared to possess a special value, whether immediate or prospective.

The certificates had hardly issued from the Office of Indian Affairs before, under a thin disguise of *agency*, in the shape of powers of attorney from the half-breeds, or their parents or guardians, they passed from hand to hand, and were even received in the banking-houses of Minnesota, as cash—at a certain ratability per acre. They were, in fact, a merchantable commodity, purchasable by any and every one who desired to obtain a valuable tract of land not accessible to any other form of entry or location.

In some instances, a power of attorney to locate the scrip and receive patent was taken from the half-breed, and after the issue of patent a quit-claim deed was obtained from him, but the uncertainties attending the residence of these half-civilized people were so great that two powers of attorney were usually taken—one authorizing the attorney to locate the scrip and receive patent from this Office, and the other to convey the land after the issue of patent; and to facilitate traffic in the scrip, the spaces in the instrument, designed for the name of the attorney, were left in blank until the location should be made, when they were filled with the name of the party making the location.

These powers of attorney were executed in strict form and acknowledged before duly authorized notaries public, with seal and witnesses, and while this Office might be fully convinced of the presence of irregularities and frauds in the premises, yet owing to the nomadic habits of the half-breeds, the unscrupulous character of the *pseudo* attorneys, and the great amount of time and labor required for an investigation, it was impossible for it, with its overweight of labor, to test the *bona fides* of locations; and so, of necessity, patents were issued and delivered. In many cases exception was taken to the manner of locations, and they were suspended here for further proof, but the reckless facility with which affidavits, of whatsoever nature, were executed to fit the requirements of this Office, demonstrated the utter futility of attempting to establish the true nature of the transactions by anything short of an investigation of each individual case, with the parties in interest confronted; and such a course, as I have before stated, this Office had neither the time nor the means to undertake.

In hundreds of cases both scrip and powers of attorney were obtained from the half-breeds for a mere shadow of consideration; a bottle of whisky or $10 in money would, and did, in many instances, secure hundreds of acres of this scrip. A large proportion of the same was issued in the names of minors, ranging from three months to seventeen years of age, and instances were not infrequent in which a father, after obtaining the scrip to which himself and, perhaps, a half a dozen children were each entitled, would, in a fit of drunkenness, be defrauded of the whole of it, comprising 2,000 or 3,000 acres.

Although, as I have aimed to show, the resources of legislation and the authority of this Office were strenuously exerted to encompass the design of Congress, with defenses against the possibility of a diversion or perversion thereof by speculators, yet the practical result is, that to-day probably not one Sioux half-breed in fifty possesses one acre of land derived through his scrip, or one dollar in money received as consideration therefor. The result is, in fact, an utter defeat of the whole object of the act, so far

as regards the interest of the half-breeds, while the scrip has wrought incalculable injury, both to the Government and to local communities, in furnishing speculators with a means of obtaining possession of exceptionally valuable portions of the public domain, including mill-sites, eligible town-sites, and more especially of pine-lands, which it has been, and is, the object of general legislation, and the policy of this Office as well, to preserve for public sale in open market, that the Government may receive the true value thereof. The celebrated "geysers" of California were located with a piece of Sioux half-breed scrip, under a power of attorney from the half-breed.

Happily, but little of this scrip is now outstanding, and the locations thereof are, comparatively speaking, so few and infrequent, and the regulations which have recently been instituted involve so close a scrutiny of each case, that it is believed but few frauds are consummated.

Chippewa half-breed scrip.

By the seventh clause of the second article of the treaty of September 30, 1854, between the United States and the Chippewa Indians of Lake Superior, it was stipulated that "each head of a family or single person over 21 years of age, at the present time, of the mixed-bloods, belonging to the Chippewas of Lake Superior, shall be entitled to eighty acres of land, to be selected under the direction of the President, and which shall be secured to them by patent in the usual form."

In pursuance of the above there were issued from time to time, under the direction of the Commissioner of Indian Affairs, some eleven hundred certificates in the following forms:

FIRST FORM.

Chippewa Indians of Lake Superior.

Treaty of September 30, 1854, article 2d, clause 7, "Each head of a family, or single person over twenty one years of age, at the present time, of the mixed-bloods belonging to the Chippewas of Lake Superior, shall be entitled to eighty acres of land; to be selected by them, under the direction of the President, and which shall be secured to them by patent in the usual form."

No. —. OFFICE MICHIGAN INDIAN AGENCY,
Detroit, October 10, 1854.

I do hereby certify that ——— ———, of ———, in the State of ———, is one of the persons described in the above provision contained in the treaty of September 30, 1854, with the Chippewas of Lake Superior, and that the said ——— ——— is entitled to eighty acres of land as therein provided. It is hereby expressly declared that any sale, transfer, mortgage, assignment, or pledge of this certificate, or of any right accruing under it, will not be recognized as valid by the United States; and that the patent for lands located by virtue thereof shall be issued directly to the above-named reservee or his heirs, and shall in nowise inure to the benefit of any other person or persons; and that the object and purpose of this certificate is to identify the said above-named ——— ——— as one of the persons entitled to the benefit of the provisions of the said 7th clause of the 2d article of the treaty aforesaid.

———,
Indian Agent.

SECOND FORM.

No. — DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
———, 186—.

I hereby certify that ——— ———, of ———, in the State of ———, is one of the persons described in the provision contained in the treaty of September 30, 1854, with the Chippewas of Lake Superior, and that the said ——— ——— is entitled to eighty acres of land, as therein provided.

It is hereby expressly declared that any sale, transfer, mortgage, assignment, or pledge of this certificate, or of any right accruing under it, will not be recognized as valid by the United States; and that the patent for lands located by virtue thereof shall be issued directly to the above-named reservee, or his or her heirs, and shall in nowise inure to the benefit of any other person or persons; and that the object and purpose of this certificate is to identify the said above-named ——— ——— as one of the persons entitled to the benefit of the provisions of the seventh clause of the second article of the treaty aforesaid.

Given under my hand and the seal of the Department of the Interior this day and year above written.

———,
Commissioner.

These certificates became known as "Chippewa half-breed scrip," and were applicable to "unoffered" lands. Although the conditions of their location, as expressed on their face, were repeated in the most emphatic terms in the instructions issued by this Office to registers and receivers of the United States, yet they immediately became the subject of absolute purchase, in utter defiance of the law, and the face of the scrip itself. In hundreds of cases, among the later issues, the half-breeds never even saw the certificates issued in their names.

As in the case of Sioux half-breed scrip, powers of attorney were usually the means used by speculators in availing themselves of the advantages of this scrip; but frequently, instead of a power of attorney to locate, the signature or mark of the scrip was obtained to a blank form of application to locate. This was attached to the scrip together with a power of attorney to convey the land. With these adjuncts, the scrip passed from hand to hand with the same facility as bounty-land warrants.

While the half-breeds were confined to the States of Michigan, Wisconsin, and Minnesota, locations of these certificates were made in nearly all the public-land States and Territories, from Michigan to California; improvements upon lands thus located were sworn to, by pretended attorneys, as having been made for the exclusive benefit of the half-breeds, and the said attorneys, in some instances, disclaimed, under oath, all interest in the scrip or in the land sought to be located therewith.

The principal use of this scrip was in the location of valuable pine-lands, and frequently in such cases no power of attorney was taken to convey the land, for the reason that, pending the examination of the case by this Office and the issue of patent, the locator designed to cut and remove the timber, which constitutes the sole value of such lands, and thereafter the question of the issue of a patent was a matter of entire indifference to him.

For the same reasons that obtained in the case of Sioux half-breed scrip, it was entirely impracticable for this Office to enter upon such extensive and protracted investigations as would have been necessary to establish as facts the multiform frauds of which a conviction had long prevailed here. In the general business of this Office, however, so much proof of these frauds had incidentally accumulated, that early in the year 1871 the Secretary of the Interior was induced to appoint a special commission to proceed to Michigan, Wisconsin, and Minnesota, in which States the greater portion of this scrip had been and was being located, and make a thorough investigation of all the facts in the premises.

During the operations of the said commission, which extended through several months, the flagrant character of the said frauds had become a matter of such wide notoriety that the attention of Congress was directed to the same, and under date of December 20, 1871, the House of Representatives adopted a resolution calling upon the Secretary of the Interior for a detailed report of the facts and circumstances attending the issue and location of the said scrip. Under date of March 12, 1872, the Secretary in response to the said resolution, submitted a very elaborate report, which was printed as "House of Representatives, Executive Document No. 193," and to which I have the honor to refer you for an explicit presentation of facts relating to this branch of my subject. A copy of said report is herewith transmitted.

House of Representatives act 1665.

This act provides that every private soldier, musician, and officer who served in the Army of the United States during the late war for ninety days, and was honorably discharged; and every seaman, marine, and officer, and other person who served in the Navy of the United States, or in the Marine Corps, during the late war, for ninety days and who was honorably discharged; and the widow of any such soldier, musician, seaman, or officer, or if there be no such widow, his orphan children under twenty-one years of age, shall be entitled to enter a quantity of public land (not mineral) not exceeding one hundred and sixty acres, or one quarter-section, which shall be composed of contiguous tracts, according to legal subdivisions including the alternate reserve sections of public lands along the line of any railroad or other public work, or other land subject to entry under the homestead laws of the United States, and receive a certificate of such entry without the payment of any Government fees.

That such entry shall be made in the name of the person entitled as above to make the same, by application in person, or by agent, under such regulations as the Secretary of the Interior shall prescribe; and the patent shall be issued only to such soldier, musician, seaman, or officer, or to his widow or orphan children, provided for in the first section of this act, who made the entry; but no sale of such land, or of any interest therein, or power of attorney authorizing such sale, or other contract or agreement in anywise affecting or concerning any such land, made, executed, or entered into prior to the issuing of the patent therefor and the actual delivery of such patent to the person to whom issued, shall be of any effect whatever, but every such sale, power of attorney, contract, or agreement, shall be null and void.

Under date of the 8th ultimo, in a letter addressed to the Hon. D. D. Pratt, (cop

herewith,) I estimated, by approximation, the number of claims that may be expected to arise under this act to be 2,000,000. Taking this estimate as a basis, and conceding that the provisions of the said act, in the event of its becoming a law, can be carried into practice in exact conformity with their intent, the result would be 320,000,000 of acres of selected public lands, or an area equal to that of the States of Indiana, Michigan, Wisconsin, Minnesota, Iowa, Missouri, Kansas, and Nebraska, sequestered from the public domain, with no requirement of residence or improvement—three hundred and twenty millions of acres comprised within the limits of, say, a dozen young States and Territories, and held by non-residents, who are to reap such profit as the struggling, tax-burdened actual settler upon adjacent lands may impart to them. This is practically the theory of the act, viz: ownership without residence, possession without community of local interest, and profit without labor! Would not this be to inaugurate upon a scale of magnitude hitherto unknown a system of absenteeism worse than that which has universally been pronounced to be the blight and curse of Ireland?

As an element of political economy land is valuable to the State only as a means of production, and undoubtedly it has been with this principle in view that, hitherto, the policy of the Government has tended more and more persistently to the requirements of settlement and improvement of the public lands as conditions to obtaining title to the same. Our active *general* laws pertaining to the public lands declare that in acquiring title thereto settlement and cultivation are in all cases indispensable; this act requires neither. It authorizes the issue of patent immediately after an entry shall have been made by the beneficiary in person, or by an agent.

The records of this Office show that a considerable percentage of the class to be benefited by this act have already availed themselves of existing homestead laws, and are at this time *bona-fide* settlers upon the public domain. These must either abandon their present tracts, after obtaining title thereto, and transfer residence and labor to the new acquisition, or hold the later acquisition for purposes of speculation—in either case each controlling his quota of non-producing lands and thus increasing the ratio of local taxation, while diminishing, with inverse correspondence, the local resources of civilization and education.

Probably no feature of our national institutions furnishes so powerful a stimulus to emigration as does the fact (which it has been my business to largely disseminate in several European languages) that a homestead of 160 acres can here be obtained, in fee, on the simple conditions of residence and labor; and to the results of this beneficent policy of cheap lands is to be largely attributed the rapid growth and prosperity of our frontier States and Territories. Can it be doubted that the alienation by the Government of so vast a proportion of its tillable lands will exert a strongly repressive influence upon the present tide of emigration, from which we derive so many millions of immediate capital and such incalculable prospective wealth?

These objections to the act in question have suggested themselves to me as concomitants of the assumption that the meaning and intent of its provisions could be strictly carried into practice, which, in my opinion, is not within the range of possibility. I have shown that at a period of our history when land speculation was but as the acorn to the tree of its present proportions, it was found to be utterly impracticable on the part of this Office to prevent frauds, and evasions of laws possessing the same restrictions and prohibitions as this, even when dealing with the comparatively petty sum of the transactions of that period. How much more impracticable will it be, then, to compel compliance with the provisions of an act of such boundless scope as this, and in the face of the prevailing spirit of speculation! A mere attempt at this would submerge this Office beneath an inevitable mass of "suspended cases."

If over eighty years' experience in public-land matters teaches anything, it is that, *first*, the bounty-land system was founded upon and has been perpetuated in a misconception of the needs of our soldiers; for, as a class, their practice has invariably been to convert the land or its representative warrant into money at an enormous discount; and, *second*, the practical operation of the system has resulted in the utter failure of its object first, last, and always—a failure involving great detriment to the national interests and innumerable complexities of fraud; for these representative obligations of the Government have been the chief instruments wherewith speculators have possessed themselves of vast bodies of the very best lands, without settlement and without improvement, and at half the price which has been required of the poor, hard-working actual settler, whose presence and whose labor constitute the vital existence of our young States and Territories. Is it consistent with equity and justice, is it good policy even, to require under our *general* land laws, that the purchase of his home, which his own labor has created, by a poor actual pre-emption settler, shall not be permitted at a less price than $1.25 per acre, while, as I have shown in a practical instance, an alien capitalist, by means of these representative obligations, may possess himself of an empire at sixty cents per acre, which he despoils of its only value, deriving millions of profit thereby, and then leaves it a dead weight of desolation upon the State, not worth the taxes?

So far as my experience extends it is not our soldiers who are pressing this act upo the attention of Congress, nor is the pressure being brought in the interest of the sol diers. My observation leads me to the conclusion that such of our soldiers who desir land *for legitimate purposes* find most generous advantages in the existing soldiers an sailors' homestead act of June 8, 1872, and that they are rapidly availing themselve of the provisions thereof. I am led to believe that this proposed act has its origin i the interest of land speculation, which has assumed this popular disguise with a vie to the overthrow of that wise policy of the Government which now insists upon actua settlement and cultivation as the *sine qua non* of titles to the public lands.

I have shown, under another head of this report, that the various issues of bounty land warrants are well-nigh exhausted. I have shown also that the current year wi probably exhaust all the issues of agricultural-college scrip. Do not these facts natural suggest the reflection that the speculators who have enriched themselves by traffic this form of land obligations will speedily be left with no "stock in trade" unless th act shall become a law?

Judging from the facts herein recited, I fear that this act, although designed by authors to furnish a bounty to soldiers, will prove to be but a preliminary moveme an "opening-wedge," in the interests of speculation, to be speedily followed by a peal of the restrictive clause relating to transfers and assignments. But even if it not so followed, I am led to believe that the power of this Office will be found entir inadequate to repress the multitudinous evasions and frauds which may be anticipa under the practical operation of the act.

These several objections to the act under consideration, weighty as they seem me to be, are yet trivial beside that which is suggested by a reference to page 3 of m official report for 1872, just issued. It is therein shown, *first*, that the total area o all our land States and Territories is 1,834,998,400 acres; *second*, that the entire are of lands surveyed by the Government from the first institution of a method of public surveys by the ordinance of May 25, 1785, to June 30, 1872, was 583,364,780 acres; *third*, that the entire area of public lands yet to be surveyed in all the land States and Territories is 1,251,633,620 acres.

By a logical deduction from this exhibit it would appear that, should the future surveys of the public lands be prosecuted at the average rate of the past eighty-seve years, *more than half a century will be required to complete surveys sufficient to satisfy th claims arising under the proposed act.*

But a graver reflection even than this arises from the contemplation of these fig ures. Taking into consideration the character of a very large proportion of the publi lands yet to be surveyed, the vast chains of mountains, the numberless river beds, th myriads of lakes and swamps, the almost boundless area of alkali, sand, and sag deserts, and adding the sum of these impracticable lands to the sum of the claims, co tingent and absolute, upon the public domain under existing acts of Congress, such a the grants to prospective States of the sixteenth and thirty-sixth sections of eac township for school purposes, grants for agricultural colleges, the grants of salin lands, the unsatisfied grants to railroads extending, and yet to extend, through land now unsurveyed, notably, the Union Pacific, the Northern Pacific, the Atlantic an Pacific, the Texas Pacific, the Atchison, Topeka and Santa Fé, &c.; then deductin the enormous aggregate comprised under these various heads, as also all mineral land from the total of lands yet to be surveyed, does it not become a question of the highe moment whether, after satisfying the requirements of this act, any arable lands woul be left to meet the demands of emigrants and other actual settlers?

Other reasons adverse to the passage of this act might be urged, but my repo has already grown to undue dimensions. Therefore, calling your attention to a cop (herewith) of my letter of 22d ultimo, addressed to the Hon. H. W. Corbett, as bearin upon the subject under consideration,

I have the honor to be, very respectfully,

WILLIS DRUMMOND,
Commissioner.

Hon. W. M. STEWART,
United States Senate.

LETTER FROM THE HON. GEO. W. JULIAN.

THE SOLDIERS' BOUNTY BILL—A PROPOSITION TO BENEFIT SPECULATORS.

To the Editor of the Tribune:

SIR: In a recent communication I referred to the gratifying fact that all parties hav at last committed themselves distinctly to the policy of reserving the remainder of o public lands for actual settlers only, and I confidently predicted the early embodime of this policy in the legislation of Congress. Finding our political parties in perfe

accord respecting it, I thought it safe to infer that the people themselves were so entirely united that politicians would no longer venture to oppose their purpose. In this, I fear, I was sadly mistaken. Several new raids upon the public domain have already been organized since the beginning of the present session of Congress, and chief among these is the bill which recently passed the House, giving 160 acres of land to every honorably discharged soldier and seaman who served 90 days in the late war for the Union, or to his widow or minor children, if deceased. I invite particular attention to this most remarkable measure.

The aggregate of soldiers and sailors who served in the late war is about 2,688,000. After making a liberal deduction for those who have died leaving no widow or heirs, the requirements of the bill would still call for at least 400,000,000 acres. This is a moderate estimate, and will be so regarded on all sides. Our public domain, outside of our Russian possessions, which are worthless for agriculture, aggregates, say, 1,000,000,000 acres. From this very large deductions are to be made. It includes the lands granted to railroad and other corporations, which have not yet been patented, amounting to not far from 200,000,000 acres. It includes the unpatented swamp-lands, being indefinite millions of acres, which must yet pass from the jurisdiction of the General Government under the act of 1850. It includes the water-surface of the land States and Territories, amounting to many millions of acres, that of California alone being estimated at 5,000,000. It includes the amount which must be given under existing laws to the new States and Territories, and which has been granted or reserved for other purposes, aggregating probably at least 100,000,000 acres. It includes the great mountain chains of the continent, and the great alkali stretches of the interior basin, covering no one knows how many millions of acres that can never be tilled. It includes the mineral lands of the Government, which are disposed of under special laws, and very large portions of which are unfit for cultivation and homesteads. It includes also our vast Indian Territory, and numerous Indian reservations, covering in all about 180,000,000 acres, which for some time to come must be incumbered by the Indian title of occupancy, and can only gradually be brought under complete national control. If we take these qualifying facts into the account, and make the deductions which they require, it will be a very liberal if not an extravagant estimate to put the entire residue of our agricultural public lands at 400,000,000 acres, the amount voted away by this bounty bill. Indeed, such an estimate can only be possibly justified by including in the term agricultural lands many millions of acres which are fit only for grazing.

Here, then, we find Congress making an absolute gift of the entire public domain of the country, which is fit for homesteads, to a particular class of men, namely, the soldiers and seamen who served their country ninety days in the late war. It is not given to actual settlers and tillers of the soil, who will transmute their labor into national wealth, and thus re-imburse the nation for its liberality. It is not given to men who are hungering for homes, or whose valor and self-sacrifice are to be rewarded by making them owners and occupiers of the soil. It is not pretended that these soldiers and seamen will occupy and improve the lands which are to be given them. The friends of land bounties, in the recent debate on the question in the House of Representatives, admitted that not one in one hundred will ever settle on his land if the bill should become a law. No argument is needed to prove this. Soldiers and sailors who want homes on the public lands can have them under the homestead law, which has been at their service at all times; and now, under the act of last session, the five years' settlement required as a condition of title, is reduced in the case of soldiers and sailors by the time of their service in the Army or Navy. It is conceded by the friends of land bounties that even under this act, which in very many cases would reduce the settlement required to one year, our soldiers do not care to avail themselves of the chances afforded to get homesteads. The object is to put money in their pockets through the sale of their lands. This is the sole and undisguised purpose of the bill, and its title simply sets forth a falsehood in claiming to be "a bill to enable honorably discharged soldiers and sailors, their widows and orphan children, to acquire homesteads on the public lands." That this is a false title, and a false pretense, I think no fair-minded friend of the measure will deny.

But if a bounty in money is the object, why not provide it directly, and apportion it according to service? Let me suppose the bill to become a law, and the exceedingly improbable fact that every soldier would be able to sell his quarter-section for $200. Would this be justice? Some of our soldiers enlisted early in the war, and others near its close. Some received large bounties, and rendered only a brief service, while others received small bounties or none at all, and yet served during the war, or the greater portion of it. A law giving bounties should be based on the principle of equality, which is justice. The bounty should be graded in amount by the time of service and the bounties already received, instead of totally disregarding these facts, and placing all on precisely the same footing. This graded bounty cannot be given in land, but it can be given in money, and our soldiers should have it. They should press their demand for it till it shall be granted. No plea of national poverty should be heeded. The amount required for this equalization is uniformly overstated; but what-

ever it may be, the nation, whose life was saved by its heroic defenders, can afford to do them justice, and cannot refuse it with any show of decency, while subsidizing railroad corporations and steamship companies are squandering the people's money in so many other forms.

But would the soldier get money under this bill? It makes the land an absolute gift. Not even Government fees are exacted. Every soldier, therefore, or his widow or heirs, would select a quarter-section at the earliest moment, and obtain a certificate of purchase. By the terms of the bill, no disposition of the land is possible till the issue of the patent. While the whole of the agricultural public domain would thus be absorbed by these certificates as fast as surveyed, it would be perfectly tied up from all uses (since the soldiers do not want to live on it) till the patent is issued. Of course this would bring the settlement and tillage of the public lands to a dead halt; but I shall refer to this presently. As soon as the patent is issued the soldier is as free to dispose of his land as was the soldier of the Mexican war to assign his warrant. The transfer will be quite as easy, and his desire for ready money will be as great. The entire public domain, the title to which the Government will have abdicated, will be thrown upon the market. If 400,000,000 acres of lands fit for tillage can be found, and their survey can be provided for, they will be for sale by their millions of owners. What will they bring? The Mexican war land-warrants only covered about 60,000,000 acres, and yet, even before the homestead law was enacted, the price fell as low at one time as 30 to 40 cents per acre. Would not the price fall still lower under this bill, with 300,000,000 or 400,000,000 acres thrown upon the market by men mostly poor, and who want money and not land? Would it not be a pitiful mockery of the just claim of the soldier, and profitable only to the speculator and shark?

In what I have said thus far I have supposed the bill capable of being executed. But even this must be denied. A large portion of our soldiers could never get the land which it proposes to give. It could not be selected and patented till surveyed. The Government, with its present force, is able to survey only about eight million acres per annum, and this is deemed sufficient to meet the demands of settlers and the development of our western territory. At this rate it would take fifty years to survey the land required by the bill; and as its effect would be to stop all settlements under the pre-emption and homestead law, there would be no motive whatever to push the surveys prematurely into the frontier. If, however, the Government could afford largely to increase the surveying force, and it were practicable and desirable to do so without reference to the demands of settlement, but solely in the interest of the soldier, it would still be found impossible to provide lands for all or nearly all of the men who would seek them under this bill. Every acre of the public domain, as fast as it could possibly be surveyed, would be taken, while a considerable per cent. of our soldiers and seamen would have to go down to their graves unaided.

But by far the most formidable objection to the bill remains to be stated. It hands over to non-resident owners, for speculative purposes, the whole public domain of the United States which is fit for occupancy and cultivation. It sets at defiance the well-known purpose of the people to attach the principle of settlement to all further dispositions of the public lands, and treats with contempt the platforms of all parties in that issue. It destroys the homestead law, by withdrawing the only lands to which it can apply, and surrendering them to the speculator and monopolist. It nullifies the pre-emption law also, for while the settler could still select his home on the unsurveyed lands, he would not be crazy enough to do it when better lands, already surveyed, could be bought for a trifle from the soldier and without any obligation to settle on them. The enactment of this bill would be practically equivalent to throwing more than two millions of land warrants on the market, cheating the soldier out of the bounty which is justly his due, while organizing land monopoly and public plunder into an institution. It would inaugurate a scheme of national spoliation, in comparison with which our land-grants to railroads, our Indian treaty swindles, and our swamp-land thieving would become decent and respectable. It would fatally stay the progress of the nation in industrial developments, and lavish curses innumerable upon the land, on the false and flimsy pretext of honoring the soldier. It is said, I know, that land bounties have been voted to the soldiers of all our former wars, and that it is but just that this traditional policy should be carried out as to the soldiers of our latest and grandest war. The answer to this is that our traditional policy has been a mischievous blunder, and ought not to be further followed. Some 73,000,000 acres of lands have been appropriated in all as military bounties, with very little profit to our soldiers, and at a most ruinous cost to the country. Of the land-warrants issued to the soldiers of the Mexican war the Commissioner of the General Land-Office estimates that not to exceed 10 per cent. of them have been used by actual settlers, and that not one in 500 has been located by soldiers or their heirs; speculators and monopolists having used them in growing rich by retarding the settlement of the country, and imposing their exactions upon the poor, to whom the public domain should have remained free. It is impossible to compute the wide spread mischiefs inflicted upon the country through the agency of these Mexican war land-warrants, for which the soldier received a comparative trifle:

but these mischiefs would be a mere drop in the bucket in comparison with those inflicted by this bill, should it become a law. Our traditional policy as to land-bounties was, no doubt, well meant; but the lesson which it clearly teaches to-day, and has written down in its tracks, is, not to repeat that policy, but to shun it. Let the nation testify its regard for the soldier by a liberal, ample bounty in money, which is the thing he needs; but let the land, which was made to be tilled, be sacredly dedicated to the purpose of its creation. I do not believe our soldiers and seamen have asked for the enactment of this bill. I have seen no evidence of it in the action of any body or organization of them in any quarter of our country; and I am sure, at all events, that no class of intelligent men, whether soldiers or civilians, who will duly consider the subject, will demand the enactment of a measure which, I am convinced, would prove a wanton conspiracy against the rights of the people and the welfare of coming generations.

GEORGE W. JULIAN.

Published by order of the Land Reform Association.

HENRY BEENY, Secretary. Office 510 Pearl Street, New York.

AN ACT to enable honorably discharged soldiers and sailors, their widows and orphan children, to acquire homesteads on the public lands of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every private soldier, musician, and officer who served in the Army of the United States, during the late war, for ninety days, and was honorably discharged, including the troops mustered into the service of the United States by virtue of the third section of an act entitled "An act making appropriations for completing the defenses of Washington, and for other purposes," approved February thirteenth, eighteen hundred and sixty-two; and every seaman, marine, and officer, and other person who served in the Navy of the United States or in the Marine Corps, during the late war, for ninety days, and who was honorably discharged; and the widow of any such soldier, musician, seaman, or officer, or, if there be no such widow, his orphan children under twenty-one years of age, shall be entitled to enter a quantity of public lands (not mineral) not exceeding one hundred and sixty acres, or one quarter-section, which shall be composed of contiguous tracts, according to legal subdivisions, including the alternate reserved sections of public lands along the line of any railroad or other public work, or other lands subject to entry under the homestead laws of the United States, and receive a certificate of such entry, without the payment of any Government fees.

SEC. 2. That such entry shall be made in the name of the person entitled as above to make the same by application in person, or by agent, under such regulations as the Secretary of the Interior shall prescribe; and the patent for the land so entered shall be issued only to such soldier, musician, seaman, or officer, or to his widow or orphan children, provided for in the first section of this act, who made the entry; but no sale of such land, or of any interest therein, or power of attorney authorizing such sale, or other contract or agreement in anywise affecting or concerning any such land, made, executed, or entered into prior to the issuing of the patent therefor, and the actual delivery of such patent to the person to whom issued, shall be of any effect whatever, but every such sale, power of attorney, contract, or agreement shall be null and void.

SEC. 3. That the Secretary of the Interior shall prescribe rules and regulations to carry the several provisions of this act into effect.

Passed the House of Representatives December 12, 1872.

Attest:

EDWARD McPHERSON, *Clerk.*

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 483.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 22, 1873.—Ordered to be printed.

Mr. KELLY, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

The Committee on Post-Offices and Post-Roads, to whom was referred the memorial of H. M. Barnes, postmaster at Pioche, in the State of Nevada, report as follows:

On the night of the 15th September, 1871, most of the buildings in the town of Pioche, in the State of Nevada, were destroyed by fire, and among them was the one in which the post-office was kept, and the postmaster, H. M. Barnes, now presents his memorial asking Congress to pass an act making compensation to him for the losses he has sustained by the fire, as follows:

1. Postage-stamps and stamped envelopes of the value of $148.
2. Money belonging to the Post-Office Department, $510.
3. Post-office boxes, drawers, and furniture of the value of $1,800.

On the 30th day of December, 1871, the Post-Office Department allowed a credit to Mr. Barnes for $108, the full amount claimed by him for stamps and stamped envelopes, although at the time his memorial was prepared that fact was unknown to him.

With regard to the property in the post-office building, consisting of boxes, drawers, and office furniture, there is no evidence whatever before the committee showing what was the amount of property destroyed, or what was the value of each separate item. There is simply the statement of the postmaster, under oath, that in the aggregate it was worth $1,800. But whatever its value may have been, there is no reason, either in law or in equity, why the United States should pay Mr. Barnes for it. It was his own private property, and he is therefore no more entitled to compensation for its loss than would be the owner of the building in which the post-office was kept.

So far as the item of $510, for money belonging to the Post-Office Department, is concerned, Mr. Barnes would be entitled to relief for its loss if he could establish the fact that it was destroyed without any remissness or neglect on his part, but this he has not done. He fails to show how far the post-office was from the place where the fire originated, and how long it was after it commenced before the post-office was burned. In his memorial Mr. Barnes says, "that your memorialist was unable to save from the building his personal effects, post-office boxes and

drawers, *or any great portion of the mails in his office.*" This clearly implies that he saved some portion of the mail matter in the office. Why did he not save the money belonging to the Government instead? Until some evidence is produced on the part of the postmaster showing that he could not secure the money intrusted to his care, he is not entitled to relief.

The committee, therefore, ask to be discharged from the further consideration of the memorial.

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42D CONGRESS, 3d Session. | SENATE. | REPORT No. 484.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 22, 1873.—Ordered to be printed.

Mr. WINDOM submitted the following

REPORT:

[To accompany bill H. R. 3134.]

The Committee on Patents, to whom was referred the application of Rebecca A. Marcher for relief, beg leave to report:

That letters-patent were issued to Robert Marcher, of Philadelphia, October 21, 1851, for "an improvement in machinery for enameling moldings, &c.;" that the same were surrendered and re-issued March 15, 1859, on amended specifications, and that the patent was extended for seven years from October 21, 1865, by the Commissioner of Patents.

This invention consists in a machine for applying a semi-liquid composition to moldings for picture-frames, looking-glass frames, and all smooth surfaces to be enameled, preparatory for gilding, &c., and the evidence shows that it has revolutionized that business to such an extent that a molding can be better prepared by this machine at a cost of three cents than by the old process for one dollar and a half. These machines are easily manufactured, costing but fifteen to twenty dollars each, and occupying so small a space that unprincipled manufacturers have made, used, and concealed them in large numbers rather than pay the license fees charged for them, so that the patent has yielded but very meager profits to the inventor and his heirs—in fact, only a few hundred dollars a year, instead of the many thousands of dollars it should have produced. So important have been the benefits conferred by this invention, that many leading manufacturers and dealers have joined in asking for this extension for the benefit of the widow and children of the inventor.

The license for the use of these machines has been such as to place it within reach of all manufacturers, as the largest establishments require but two or three machines.

No benefit was derived from the patent prior to 1859, and since then but a small amount, compared with its great value to the public, who have really thus far enjoyed it without paying any adequate compensation.

The widow and executrix, with three minor children, is in indigent circumstances, and your committee, having examined into the question, are satisfied that if this patent is extended it will inure to their benefit, and as an act of justice on the part of Congress providing them with the chance for profit which this extension may furnish, they recommend the passage of the accompanying bill.

42D CONGRESS, 3d Session. | SENATE. | REPORT No. 485.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 22, 1873.—Ordered to be printed.

Mr. BOREMAN, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Charles Lanman, praying compensation for loss and damage sustained by alleged infringements, by order of Congress, of his copyright of a work entitled "Dictionary of Congress," of which he is the author, have, according to order, had the same under consideration, and respectfully submit the following report:

It appears that claimant is the author of a work of some 700 octavo pages, entitled "Dictionary of Congress," the particular and chief characteristic and merit of which consists in the biographical sketches of the members of Congress and chief officers of the Government from its foundation, and which occupy nearly all its pages. The first edition was published in 1859, and other editions in the years 1864, 1866, 1867, and 1869, respectively, and for each of which he obtained a copyright as authorized by act of Congress.

It appears, also, that in 1864, by order of the respective Houses of Congress, there were printed at the Government Printing-Office 1,550 copies for each House—3,100 in all—for which claimant was allowed one dollar per copy for his copyright; that in 1866 there were printed by order of the Senate 1,550 copies of the revised edition, for which claimant was allowed one dollar per copy for his copyright; and that in 1868 there were purchased of claimant, by order of the Senate, one copy each for the Senators, of the fifth edition of said dictionary, and one copy each for the offices of the Secretary, Sergeant-at-Arms, and Postmaster of the Senate, for which, as claimant alleges, he was paid four dollars per copy.

Claimant alleges, *under oath*, "that when he commenced the publication of the said Dictionary of Congress, he entered upon it as the regular business of his life; that, when he first published it in 1859, on private account, it was universally acknowledged by the press and its patrons to be a valuable work, and was successful as a business enterprise—the retail price having been three dollars per copy, and the number published five thousand copies;" "that it is his firm belief and conviction that the subsequent failure of his publication was owing entirely to the periodical appearance of the 'Congressional Directory,' in which the 'plan' of printing biographical sketches of Congressmen was copied and adopted from his Dictionary of Congress;" that the Congressional Directory, containing biographical sketches, was first published in 1867, the very next year after the appearance of the last edition of the Dictionary of Congress, published by Congress, and that relying upon the success which had before that time followed the publi-

cation of the several editions of said Dictionary of Congress, he published, in 1868, an edition of several thousand copies, but the enterprise was an entire failure, as he was unable to dispose of the book, by reason of the publication, by Congress, of the said Congressional Directory, and he was subjected to a heavy loss, as were also the parties who printed the work for him."

Claimant further states, *under oath*, "that his actual receipts, in a single year, have amounted to $3,500, and as this is the interest, at 6 per cent., upon $58,333, he feels justified in claiming from the Government, as copyright, and for the irreparable destruction of his legitimate business, under its authority and express direction, the sum of $58,333, for which he is willing to relinquish all of his right in the premises."

The allegation of claimant as to the falling off in the sale of his work is supported by the affidavits of his publisher, of Hartford, Connecticut, and the agent of the latter in this city, both of whom also declare that in their opinion the failure in the sale of the dictionary is owing to the publication by Congress of the Congressional Directory, which is distributed free by members of Congress, and which is sold in the bookstores at twenty-five cents per copy.

It will be seen from the above that claimant complains that his copyright has been infringed, and he has sustained damage by reason of the action of Congress in publishing the Congressional Directory.

Has claimant's copyright been infringed? It is not understood that claimant complains on the ground that his dictionary, or any considerable portion of it, has been copied, for this is not the case. The dictionary contains biographical sketches of the members of Congress and other officers from the foundation of the Government, while the directory is issued annually, and contains only sketches, &c., of the members of Congress for the current year. It is not therefore because the dictionary has been copied or its contents used, but it is because "the plan" of claimant, of giving "biographical sketches," was adopted in the directory of 1867 and "has been continued ever since," although prior to 1867 the directory aforesaid had never contained any information of a "biographical character."

Is the *plan* of a book the subject of a copyright, which may be infringed as such, when the material of the book, or its composition, are not used or copied? It seems to be admitted as a general proposition that authors have no copyright at common law in the United States; that whatever rights they have are secured to them by acts of Congress passed in pursuance of the provision of the Constitution on this subject.

The act of Congress of February 3, 1831, section 1, (4 Stat. at Large, 436,) which was in force when claimant alleges the first violation of his copyright occurred, declares that "any person or persons, being a citizen or citizens of the United States, or resident therein, who shall be the author or authors of any book or books, map, chart, or musical composition, which may be now made or composed, or who shall invent, design, etch, engrave, work or cause to be engraved, etched, or worked from his own design, any print or engraving, * * * shall have the sole right and liberty of printing, reprinting, publishing, and vending such book or books, map, &c., &c., in whole or in part, for the term of twenty-eight years from the time of recording the title thereof, in the manner hereinafter directed."

The act of July 8, 1870, repealed the above-recited act, and in section 86 (16 Statutes at Large, 212) provides: "That any citizen of the United States, or resident therein, who shall be the author, inventor, designer, or proprietor of any book, map, chart, dramatic or musical

composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts, &c., shall, upon complying with the provisions of this act, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same," &c.

Section 99 of the last-mentioned act (which is substantially a copy of section 6 of the act of 1831) provides: "That if any person, after the recording of the title of any book as herein provided, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in the presence of two or more witnesses, print, publish, or import, or, knowing the same to be so printed, published, or imported, shall sell, or expose to sale, any copy of such book, such offender shall forfeit every copy thereof to the said proprietor, and shall also forfeit and pay such damages as may be recovered in a civil action by such proprietor in any court of competent jurisdiction."

It may be seen that the statutes do not define what shall constitute an infringement of copyright. It is left to the proper tribunal to decide in each case, upon the circumstances of the case, whether a violation of the right has been committed, and this is very frequently a matter of no little difficulty. It will be observed, however, that the forfeitures in the statute are only denounced against a person who, "after the recording of the title of any *book* as herein provided," "shall sell, or expose to sale, any *copy of such book.*"

The committee have not been able to find authority to sustain the position that claimant's copyright is infringed by inserting in the annual directory biographical sketches of the members of the current Congress, when no part of the material or composition of his dictionary has been used. Wherever the plan or arrangement is spoken of, it seems to be in connection with the subject-matter or material of the work, the copyright of which is supposed to be infringed. In Curtis on Copyright it is said "that this right may be invaded in several ways. 1. By reprinting the whole work *verbatim;* 2. By reprinting *verbatim* a part of it, either with or without acknowledgment of the source from which the extract or passage is taken. 3. By imitating the whole or a part, or by reproducing the whole or a part, with colorable alterations or disguises, intending to give to it the character of a new work. 4. By reproducing the whole, or a part, under anabridged form." But, from the connection in which this enumeration of the different forms of infringement is found, as well as upon the face of it, it is apparent that the author contemplated that the work complained of as an infringement must be on the same subject as the one of which the copyright was alleged to be infringed.

Claimant cites the opinion of Justice Story, in the case of Emerson *vs.* Davis, 3 Story Cir. Ct. Reports, in which he says: "Every author of a book has a copyright in the plan, arrangement, and combination of *his materials*, and in his mode of illustrating his *subject*, if it be new and original in substance." But this declaration must be taken in connection with the matter in controversy in the case before the court, and in looking into it we find that the defendant had not only adopted the plan and method of an arithmetic of which the plaintiff was the author, but had actually copied literally whole pages of the same, thus using plaintiff's materials in a work on the same subject. Moreover, the above quotation is only one sentence from an elaborate opinion in the case; and from the connection in which it stands, cannot be regarded as authority on the isolated proposition of the infringement of the *plan* only

when the materials of the author are not appropriated or used in the work complained of. The same learned judge, in Folsom *vs.* Marsh, 2 Story Cir. Ct. R., says: "A fair and *bona-fide* abridgment of an original work is not a piracy of the copyright of the author." Yet it is difficult to conceive of an abridgment without preserving in great part the plan and arrangement of the original work. The only discussion found of the abstract doctrine of the law in regard to the infringement of copyright in the plan or method of a book, independent of the materials and language, is in a note on page 286 of Curtis on Copyright, containing an extract from a master's report in a case in the United States circuit court of the district of Massachusetts, which seems to have been approved by that author, and in which the argument is adverse to the pretensions of the claimant now before us.

Upon a fair, and indeed liberal, construction of the statutes, and the necessarily hasty examination made of the authorities on the subject, the committee are unable to see that in point of law the right of the claimant has been invaded by the publication of the Congressional Directory.

It would seem, however, from the petition and other papers filed therewith, and from the oral statements of claimant, that if it shall be the opinion that, in strictness of law, his copyright has not been infringed, yet that he has a right to appeal to the magnanimity of the Government for reparation of the loss and damage which he claims to have sustained by the action of Congress in publishing a work which he alleges has superseded and displaced the one of which he is the author so as to prevent further sales thereof, and, in fact, has rendered his copyright valueless.

It may be, and probably is, true, that there has been a falling off in the sales of the Congressional Dictionary. Claimant and two witnesses state the fact, and express the *opinion* that this is in consequence of the publication of the directory. But it seems remarkable that a mere pamphlet, containing biographical sketches of the current Congress only, should entirely, or even to any considerable extent, displace and supersede a book of seven hundred pages, containing biographical sketches of the members of Congress from the foundation of the Government. May it not be ascribed, in part at least, to other causes, such as that the public were supplied, to some extent, from former editions, and that Congress declined to make further purchases from claimant, or to print his work and pay him for the copyright, as they had done for a number of years, but were under no obligation to continue, nor to insure to claimant the continued sale and profitableness of his work?

But suppose the publication of the directory *has* reduced the sales of claimant's dictionary and the consequent profits of the enterprise. The proposition simply resolves itself into this, that the Government, or any of its Departments shall not adopt and use facilities and conveniences for the transaction of business where the same may, perhance, impair or infringe upon the private enterprise of some individual, although no law or right is violated thereby, lest his scheme may not be as successful or his profits as large as he had anticipated.

In any aspect of the matter, the committee fail to perceive that claimant has any demand on the Government on account of the alleged grievances set forth in his petition, and they, therefore, report the same back to the Senate, and ask to be discharged from the further consideration thereof.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 486.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 22, 1873.—Ordered to be printed.

Mr. BOREMAN submitted the following

REPORT:

[To accompany bill H. R. 2804.]

The Committee on Claims, to whom was referred House bill 2804, for the relief of Joseph Dawson, have, according to order, had the same under consideration, and respectfully submit the following report:

It appears that claimant as assistant assessor of internal revenue in Tazewell County, Virginia, on the 18th of May, 1867, in the discharge of his official duty, visited the distillery of one John Hanshew, of Burke's Garden, in said county, which is a mountain region, and upon examination of the distillery found that it had been operated in violation of law. Claimant explained the law in relation to distilleries to said Hanshew, as well as the penalties for its violation. On the next morning, viz, May 19, 1867, as claimant was returning to his office, he was waylaid by said Hanshew, who had secreted himself by the road-side on the top of Rich Mountain, and was by him shot through the left side and arm with a rifle-ball. The wound was very severe, breaking the bone of the arm, and resulting in paralysis and a wasting away of the arm, and in all probability disabling him for ordinary labor for life. As late as October 3, 1868, Assistant Surgeon J. S. Billings, brevet lieutenant-colonel, United States Army, examined the wounded parts and gave the folllowing certificate:

WAR DEPARTMENT, SURGEON-GENERAL'S OFFICE,
Washington, October 3, 1868.

I certify that I have this day examined Joseph Dawson, and find that he is suffering from the effects of a gunshot wound of the left arm, producing paralysis and atrophy of the extensor muscles of the forearm. The paralysis is due to injury of the musculo-spiral nerve as it winds round the humerus, and said injury has been so extensive that it will probably never be repaired. And in consequence thereof he is permanently disabled from obtaining his subsistence by manual labor.

J. S. BILLINGS,
Assistant Surgeon and Brevet Lieutenant-Colonel, United States Army.

It appears that claimant was for a long time so ill as to require nursing and the attendance of physician, and was put to great expense therefor, as well as for his board and other incidental matters.

Immediately after the occurrence Hanshew absconded. Claimant instituted a suit against him for damages, but his property was seized by the Government on account of his violations of the law, and was sold, and the proceeds thereof, being $822.50, as appears by a letter from the Commissioner of Internal Revenue, were covered into the Treasury. In consequence of this proceeding on behalf of the Government, Hanshew's property was exhausted, and claimant's suit proved unavailing.

Claimant's petition is indorsed by E. A. Rollins, then (in 1868) Commissioner of Internal Revenue, in which he says: "I have already approved Mr. Dawson's claim based on the within recital. * * * * I therefore commend the claim, approved, to the careful attention and favorable consideration of Congress." It is also indorsed by Mr. McCulloch, Secretary of the Treasury, in which he says: "I consider the claim of Mr. Dawson a very meritorious one, and earnestly recommend the passage of a law for his relief."

The said House bill allows claimant $1,790, made up as follows:

Lost time, eighty days, at $5 per day	$400 00
Physician's bill fifteen months, boarding, nursing, and other incidental expenses	490 00
Proceeds of Hanshew's property	900 00
	1,790 00

The committee do not see upon what principle the claimant can be allowed for the loss of his time, and they therefore reject the charge of $400 on that account. But they are of opinion that, under the peculiar circumstances of the case, there is some obligation on the Government to re-imburse him for the actual expenses for physician's bill, nursing, board, &c., incurred in consequence of violence to his person while in the faithful discharge of his duty to the Government, and accordingly allow him $490, the amount of such actual expenses. They also think that he may well be allowed the above sum of $822.50, the proceeds of Hanshew's property, which was seized and sold by the Government, in consequence of information given by him, and which otherwise would, in all probability, have been subjected to claimant's suit for damages and he have received the benefit thereof. It will thus be seen that the committee are of opinion that claimant is entitled to the sum of $1,312.50 instead of the sum set forth in the said House bill. They therefore report back to the Senate the said House bill with an amendment accordingly, and, as so amended, they recommend that the same do pass.

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42D CONGRESS, 3d Session. | SENATE. | REPORT No. 487.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 22, 1873.—Ordered to be printed.

Mr. WINDOM submitted the following

REPORT:

[To accompany bill H. R. 3137.]

The Committee on Patents, to whom was referred the petition of Hugh McCormick for relief, beg leave to report:

That they have carefully examined into the case, and find that Hugh McCormick was appointed disbursing-clerk of the Patent-Office April 8, 1851, and in 1855 his salary was fixed at $1,800.

In addition to the legitimate duties of disbursing-clerk for the Patent-Office, Mr. McCormick was required to and did disburse all the moneys appropriated by Congress for agricultural and other purposes, which were authorized to be expended under the direction of the Commissioner of Patents, amounting to nearly $1,000,000.

From the year 1853 to 1868, Mr. McCormick has received and disbursed about $5,000,000, receiving it in small sums as daily paid into the Patent-Office.

The disbursing clerks in the several Departments receive an extra compensation besides the salary of the clerkship which they hold, or are allowed by law a larger salary on account of the responsibility imposed upon them as disbursing officers.

Ex-Secretary Browning, Ex-Commissioner Fisher, and General Leggett, the present Commissioner of Patents, have all earnestly requested that this allowance be made, and your committee believe this disbursing-officer should be put on an equal footing with the other disbursing-officers of the Government, and therefore unanimously recommend the passage of the accompanying bill.

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 488.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 22, 1873.—Ordered to be printed.

Mr. DAVIS submitted the following

REPORT:

[To accompany bill H. R. 3864.]

The Committee on Claims, to whom were referred the petition, papers, and House bill 3864, for the relief of the heirs-at-law of James B. Armstrong, deceased, have considered the same, and report as follows:

In 1855 James B. Armstrong, late of Cameron County, Texas, contracted with the United States for the transportation of men, provisions, munitions of war, &c., from Brazos Santiago to Fort Brown and Fort Ringgold, on the Rio Grande. The contract commenced August 1, 1855, and continued two years. From some cause not explained, but very little was offered to Armstrong for transportation; his boats were upon the river and made regular trips. There was an opposition line which transported most of the Government supplies, men, &c. Armstrong brought suit in the Court of Claims for $200,000 damages, and on November 22, 1860, the court rendered judgment against the United States in favor of Armstrong for $17,846.78 for breach of contract.

In accordance with the law then regulating the Court of Claims, the judgment was reported to Congress, and by it to the Committee on Claims. Before action or report of the committee the rebellion broke out; the attorney in the case went South, and died about the close of the war. Armstrong also died.

Last session of this Congress the claim was again introduced, and this session a bill passed the House to pay such of the heirs or next of kin of Armstrong as remained loyal during the late war, their proportion of $17,846.78, the amount of the judgment in the Court of Claims. The committee think that, owing to the articles not having been handled or transported, 25 per cent. ought to be deducted from the amount allowed by the Court of Claims and House bill, and recommend an amendment appropriating $13,385.09.

O

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 489.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. THURMAN submitted the following

REPORT:

[To accompany bill H. R. 3731.]

The Committee on Private Land-Claims, to whom was referred the bill (H. R. 3731) entitled "An act to confirm certain land-titles in the State of Missouri," report the same with the following amendments:

In line 3, section 1, strike out the words "grant of" and insert the words "United States hereby release whatever title they have to." In line 9, same section, strike out the words "be, and is hereby, confirmed."

In line 10, same section, strike out the words "said Moses Austin, or his legal representatives," and insert the words "the heirs or assigns of said Moses Austin, according to their respective interests therein."

Strike out the whole of the second section.

The bill being thus amended, the committee recommend that it do pass.

O

42D CONGRESS, 3d Session. | SENATE. | REPORT No. 490.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 22, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill H. R. 1785.]

The Committee on Patents, to whom was referred House bill 1785, *being an act for the relief of Samuel A. Duncan, respectfully report:*

That, by the act of 1870, the office of Assistant Commissioner of Patents was created, with a certain salary and certain duties; that one of those duties was, that in any temporary vacancy of the office of Commissioner of Patents the Assistant Commissioner should discharge the duties of the Commissioner; that Samuel A. Duncan is, and for some time has been, Assistant Commissioner of Patents; that while he has so held that position there has been a temporary vacancy in the office of Commissioner, and Mr. Duncan has discharged, during such period, the duties of Commissioner, for which the bill proposes to give him extra compensation. The committee are of opinion that the bill ought not to pass, and recommend its indefinite postponement.

O

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 491.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1873.—Ordered to be printed.

Mr. HOWE submitted the following

REPORT:

[To accompany bill H. R. 4009.]

The Committee on Claims, to whom was referred H. R. 4009, for the relief of Lieutenant John F. Wotring, having considered the same, ask leave to submit the following report:

The bill directs the Secretary of the Treasury to pay the claimant the compensation, allowances, and emoluments of a first lieutenant of cavalry from the 11th of March, 1864, to the 1st of September following.

It is alleged on behalf of the claimant that during that term he held a commission from the governor of West Virginia as first lieutenant of cavalry. The case does not show what company he was commissioned in, nor what was the date of the commission. One F. W. Thompson makes an affidavit that he was lieutenant-colonel of the Sixth Regiment of West Virginia Cavalry; that on or about the 1st of April, 1864, when he resumed command of the regiment, he found Wotring doing duty as first lieutenant of Company L. One J. J. Thompson makes affidavit that on the 11th of March, 1864, he held the rank of captain in Company A of the Sixth Regiment; that he assigned Wotring to duty as first lieutenant of Company L. Both these witnesses testify that Wotring was not mustered into the service of the United States until the 1st of September, 1864, "owing to the exigencies of the service." One William H. Kantner, who describes himself as captain of Company F of the Sixth Regiment, West Virginia Cavalry, testifies that Wotring served as first lieutenant of Company E in that regiment from the 1st of April, 1864, to the 1st of September following; and that he was not mustered into the service of the United States owing to "the oversight or inadvertence of said Wotring." J. E. Crane, who describes himself as commissary sargeant of Company F, corroborates the statements of Kantner. The Secretary of War and the assistant adjutant-general contradict all of said witnesses, and certify that there never was any such company as Company L, Sixth Regiment West Virginia Cavalry; that the men said to belong to it were merely "a detachment of unassigned recruits which was in September, 1864, formed into and knownas Company E, Sixth West Virginia Cavalry, * * * and that the records furnish no evidence of any service rendered by Wotring prior to September, 1864."

The committee recommed that the bill be indefinitely postponed.

O

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 492.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3516.]

The Committe on Claims, to whom was referred the bill (H. R. 3516) for the relief of Jesse E. Peyton, submit the following report:

John P. Hopkins sued Jesse E. Peyton, in the supreme court of New Jersey, for the use and occupation of messuage, farm, houses and lands, situate in Haddonfield, New Jersey, from November 1, 1861, to March 18, 1863, claiming as rent $1,000; and also for forage, wood, coal, boards, &c., and for labor in carting, the entire account amounting to $1,336.88, and for interest on the same from April 1, 1863. Issue was joined, a jury impaneled, and a trial had, resulting in a verdict for the sum of $1,624.21, and a judgment for this sum and costs was rendered on the 7th day of November, 1866.

The account seems to have originated in this manner: Colonel Peyton states that on the 20th of October, 1862, he was authorized by the War Department to raise a regiment of cavalry, the recruiting of which was to be confined to the city of Philadelphia. A camp was established by him on the farm of Mr. Hopkins, to which the recruits were taken for safe-keeping. This camp was across the river, and, as Mr. Peyton claims, was approved by the Quartermaster and Commissary Departments, as well as by the mustering-officer then on duty in Philadelphia.

He further states that his regimental quartermaster, Lieutenant McLeod, made a written contract with Hopkins for the rent of his place for the use of the Government, which was approved by the claimant, and that Hopkins never pretended to look to him for his pay, until he became tired of waiting on the War Department for it, to which he had made application and with which he filed his contract. Failing to obtain his pay there, he sued Hopkins and obtained the above judgment.

After suit was begun Peyton made repeated efforts to obtain the written contract, claiming that it would show on its face that the Government and Hopkins were sole parties to it, and he in nowise responsible individually. But he never succeeded in obtaining the papers, and says that because of his failure to get it he was defeated in the action.

The judgment, it will be seen, included something beyond rent—personal property, such as wood and coal, and some personal service rendered by Hopkins. The claimant affirms that this property was supplies furnished the camp on requisitions of officers of the Quartermaster's and Commissary Departments.

The quartermaster swears that the men mustered were sent to the camp as early as possible, transportation and supplies being furnished by the Government; that the price named in the lease was reasonable; that the location of the camp was well adapted to the purpose; that buildings were erected on the grounds, a portion of which were needed and used for the storage of provisions, camp-equipage, &c., tents not having been received until some time subsequent to the enlistment of a number of men, and he expresses the hope that the Government may re-imburse the claimant.

The lease shows a contract made between Hopkins and wife of the one part, and Daniel McLeod, quartermaster of the regiment of cavalry known as the "Continental Cavalry of Pennsylvania Volunteers," of the other part, the same officer whose affidavit is just given. It bears date the 6th day of November, 1862, and leases the lands and houses in controversy, embracing about thirty acres, for the rent of $1,000, until March 1, 1863, "to be used as a camp and for camping purposes by the said regiment." The lease bears the approval of Colonel Peyton. Hopkins presented an account for the rent to the War Department, and its correctness was certified by the quartermaster before mentioned and approved by Colonel Peyton.

From an indorsement made by the Secretary of War, May 14, 1863, it appears he was of opinion that although the ground was rented without the approval of the mustering and disbursing officers, the rent of it should be paid for at such a rate of compensation as Colonel Ruff had been in the habit of paying, and for such period of time as the place was actually occupied. The claim for the use of the store-house was, however, rejected.

From a letter of Colonel Ruff, the disbursing-officer, to the Adjutant-General, dated May 6, 1863, it appears that this regiment, called by him the One hundred and eightieth Pennsylvania Volunteers, was authorized by the War Department; that Peyton was designated its commander; that it was to be recruited wholly within Philadelphia, and in the period of sixty days; that Colonel Peyton applied to him for authority to establish his camp at Haddonfield, some seven miles from the city, which he refused to allow, and referred him to the instructions of the order, and offered to procure him proper and convenient camp-ground near the city, on or in the vicinity of locations previously rented by him for similar purposes. He further states that he had no knowledge of the above contract until about the time the two companies recruited by Colonel Peyton had been ordered to be transferred to another organization and Colonel Peyton's authority revoked. He expresses the opinion that the rent charged was most exorbitant, and says it was largely in excess of any rents paid by him for suitable camp-grounds whereon he had encamped entire regiments, and adds that Peyton well knew that had the contract been referred to him he would at once have disapproved of it.

As to the store-house, he says its rent was wholly unnecsssary, and that its use by the officers was unnecessary, as they were supplied with tents as well as the enlisted men. The authority for raising the regiment was dated 22d October, 1862, but recruiting did not commence until a week later, and the order revoking Colonel Peyton's authority bears date 17th February, 1863, so that there could not be, in Colonel Ruff's opinion, any just demand for rent against any Department for a longer period than between the 30th October, 1862, and the 23d February, 1863, and for this period no greater amount than $50 per month should be allowed for rent of the premises, that being the average of monthly rents paid by him.

It further appears by the letter that, although two hundred and seventy-five men had been enlisted, only one hundred could be got together when the order came for their removal to Washington City.

Mr. Hopkins presented another account for the sum of $600 to the War Department, and this also was certified by the same quartermaster (McLeod) and approved by Colonel Peyton to the amount of $500. This account was for damages sustained by injuries to three dwellings, one grist-mill, to the fences, and to the timber-land in the falling of trees.

Hopkins also presented five accounts against the United States to the War Department for wood, coal, straw, lumber, and for hauling camp equipage.

It seems that his claims were very much cut down in the Department, and he refused to accept what was allowed him, and proceeded to institute suit against Peyton. These accounts are all certified and approved in the manner above stated.

While the suit was pending Colonel Peyton made repeated applications to the Department for the accounts and lease in order that he might make it appear to the court that Hopkins's contract was with the United States, and that the latter were chargeable for the supplies furnished. It seems from the evidence that a part of the papers were used in court, but the lease was never furnished, nor does it appear why it was not, as it certainly was the most important piece of evidence in the case, and related to the largest item in Hopkins's account.

After the verdict Peyton again applied to the Department for the papers, to be used on his motion for a new trial, but it is impossible to tell from the mass of papers and the abbreviated entries upon them whether his request was granted.

After the judgment was rendered Colonel Peyton made application to the Secretary of War, setting forth all the facts as he understood them, praying to be paid the amount of the recovery against him.

This application was referred by order of the Secretary to the claims commission, of which General Canby was president, April 24, 1867, but what disposition was made of the matter by that commission does not appear.

The next paper throwing any light on the case is the following report of Colonel Vincent to the Adjutant-General:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
January 21, 1871.

Respectfully submitted to the Adjutant-General, with office briefs in this claim.

It has, prior to present application, received much patient attention, not only from the War Department proper, but this Office, and it is respectfully recommended that the matter should rest as at present fixed by the Secretary of War and all further consideration of it declined.

The acts of Colonel Peyton were marked by a violation of the conditions of the War Department imposed on the recruitment of the organization; by a positive disregard of the instructions of the United States mustering-officer in Philadelphia, and by other irregularities, if not fraud, on his part. In fact, a perusal of the papers leaves the impress that he undertook the recruitment not to advance the public interest, but as a speculative measure. As a result, his services were of little or no advantage to the Government. Subsequently he commenced operations on an enlarged sphere, under an authorization from the military governor of Tennessee, and the fact coming to the notice of the Secretary of War, the authorization was directed to be recalled. The recall reciting: "From experience, the War Department has no confidence in his (Peyton's) fitness for said duties."

THOMAS M. VINCENT,
Assistant Adjutant-General.

Respectfully submitted to the Secretary of War with recommendation that a reopening or reconsideration of this claim be refused.

E. D. TOWNSEND,
Adjutant-General.

Since the report was written the following abstract of the case h been furnished to the committee from the War Department, which inserted at this point:

CLAIM OF JESSE E. PEYTON.

Memorandum to accompany papers in case of claim of John E. Hopkins for re damages, &c., called for by the Committee of Claims, House of Representatives, letter dated March 29, 1872.

In order that the committee may properly understand this case, the papers have b arranged in regular order and numbered.

No. 1. Letter of Colonel Peyton, dated March 29, 1863, transmitting the account rent and damages.

No. 2. Vouchers, in triplicate, for rent.

No. 3. Vouchers, in triplicate, for damages.

No. 4. Letter dated February 23, 1863, addressed to Lieutenant-Colonel C. F. R Third United States Cavalry, mustering and disbursing officer, signed by various o cers, Companies A and B, Continental Cavalry, (One hundred and eightieth Pe sylvania Volunteers.)

No. 5. The original lease of the land.

No. 6. Is a statement signed by Dr. A. D. Woodruff, relative to the claim.

These papers comprise all submitted. The first action had by the War Departm is indorsed on the papers marked 2 and 3. Said indorsement is dated April 28, 18 On May 1, 1863, the papers were referred to Lieutenant-Colonel Ruff, as per instructi of the War Department. Indorsement referring them will be found on paper marl 1. On May 6, 1863, Lieutenant-Colonel Ruff returned the case with report indorsed vouchers marked 3, in detail in letter marked 7. This was followed by a letter fr Colonel Peyton, dated May 9, 1863, marked 8. The action of the War Department, view of this report, is indorsed on voucher marked 3, and is dated May 14, 1863. same day papers were returned to Lieutenant-Colonel Ruff, inviting his attention said indorsements. (See paper marked 9.) On August 24, 1863, Captain W. B. L returned all the papers in the claim with a statement. (See paper marked 10.)

The claimant, Hopkins, having refused settlement on the basis offered by the V Department, no further action in the matter was had until June 18, 1864, when case was referred to the Judge-Advocate, who returned the same with remark t "this claim is rightly rejected." (See paper marked 11.)

On March 28, 1863, Colonel Peyton also forwarded five claims of John E. Hopki for wood, straw, &c., alleged to have been furnished for use of the soldiers at the ca of organization of his regiment. The letter of transmittal has been lost or misla The vouchers are herewith, marked 12, 13, 14, 15, and 16. The evidence filed in supp of these claims, consisting of four requisitions for fuel and two certificates for str are herewith, marked 17.

Action was had by the War Department April 28, 1863, and on May 2, 1863, t were referred to the Quartermaster-General. The action had will appear from copy indorsement herewith, marked 18. On May 27, 1863, the Quartermaster-General turned the claim to Colonel Peyton disallowed. (See paper marked 19.) They t appear to have been presented to Captain W. B. Lane, Third Cavalry, disbursing-c cer, Philadelphia, who, on September 7, 1863, returned them to this Office, with a rep which is herewith, marked 20. Papers marked 19, 21, and 22 are referred to in Capt Lane's report. Papers marked 23 and 24 are merely wrappers. As these claims p tained to the Quartermaster's Department, they were again referred to that Depa ment September 25, 1863.

In January, 1866, and again January, 18[illegible], the War Department, at the request Colonel Peyton, sent all the papers in these claims to the chief mustering and disbu ing officer, Philadelphia, Pennsylvania, with directions to produce the same in cou to be used as evidence in certain suits then pending. The correspondence and oth papers relating thereto are herewith, marked from 25 to 32 inclusive.

In April, 1867, Colonel J. E. Peyton made application to the War Department for imbursement of a judgment against him in John E. Hopkins's favor for fuel, & furnished the One hundred and eightieth Pennsylvania Volunteers, and for rent land used by said regiment during its organization, &c. Amount of judgment, $1,6 This application was referred to the claims commission of the War Department, but did not receive favorable consideration. The papers in connection therewith marked from 33 to 45 inclusive.

In January, 1870, Colonel Peyton again applied for a settlement. (See paper marked 4 Application not favorably considered. Again in July, 1870. (See paper marked 4 No action. On March 10, 1871, he again asked that the claim be re-opened and retur to Colonel Ruff for review, &c. (See paper marked 48.) As requested by him, t papers were returned, and, on April 24, 1871, Lieutenant-Colonel Ruff made a n report, which will be found attached to paper marked 48. Accompanying the rep of Colonel Ruff were papers marked 49, 50, and 51.

The case was re-examined in connection with said report and the additional evidence, but the former decision of the Department was not changed. The claimant's attorney was so notified May 25, 1871. The attention of the committee is invited to the report of the Adjutant-General attached to paper marked 48. Again, in October, 1871, the matter was carefully and thoroughly re-examined, and further consideration of the same declined.

The papers herewith transmitted include all on file in the Department of value to the committee in determining the justness of this claim.

E. D. TOWNSEND,
Adjutant-General.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
April 16, 1872.

From the testimony it appears to the committee that the camp-ground was selected with judgment. Between it and the city was a river, which was some protection against desertion; the land was sandy and the situation salubrious. The camp was adopted by the Government, and used until the recruits were transferred to another organization. But it is apparent the rent was fixed at too high a rate, and the approval of Hopkins's claim for damages by Colonel Peyton excites suspicion. When the high rent allowed is considered, the incidental damages might well be deemed as included in the contract.

We think, too, the War Department was in fault for not furnishing Colonel Peyton with the lease. That ought to have defeated the plaintiff's claim and remitted him to the Government for compensation. We think from the proofs that Hopkins had a valid claim against the United States on the *quantum meruit* for $775, at least, and if we understand the indorsements on the papers furnished by the War Department, it was willing to allow him that sum, but he refused to accept it. Peyton was put to considerable expense in defending this suit; he has paid the judgment, interest, and costs, and we think he should be re-imbursed to the amount of $775, and we recommend that the bill, amended so as to allow him that sum, pass.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 493.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. KELLY submitted the following

REPORT:

[To accompany bill H. R. 4002.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 4002) for the relief of Jonathan Diehl and George Blymer, sureties, &c., report as follows:

Upon a careful consideration of the evidence submitted to us, we entirely concur in the report of the House of Representatives' Committee on the Post-Office and Post-Roads, and adopt it as our own. It is herewith subjoined:

Report of Mr. Hill, from the Committee on the Post-Office and Post-Roads of the House of Representatives.

This bill calls for the relief of Jonathan Diehl and George Blymer, sureties on the bond of Josiah S. Diehl, late contractor for carrying the United States mail on post-route No. 4249, in the State of West Virginia, between Martinsburgh, West Virginia, and Williamsport, Maryland, thirteen miles and back, six times a week, at the rate of $180 per annum, for a term of four years from the 14th of July, 1867. Service was commenced under said contract on the said date, and continued till the 13th of December, 1867—five months. Mr. Diehl failing to provide longer for the service, the postmaster at Martinsburgh, under the usual instructions in such cases, employed Henry Teller from 13th of December, 1867, to 5th March, 1868, and afterward Paul Strawsner from the 6th of March till 31st of May, 1868, paying them for the period $422.66. The route was re-advertised, under date of February 25, 1868, and let to Thomas Little, of Hagerstown, Maryland, at his bid of $890 per annum, it being the lowest, and a contract entered into with him, dating from June 1, 1868. The sum stated above for temporary service, also the difference between the bid of Mr. Diehl—$180 per annum—and that of Thomas Little—$890 per annum—was reported to the Auditor of the Treasury for the Post-Office Department, who was directed to charge the same to the failing contractor, J. S. Diehl, and his sureties—amounting to $2,536.01.

Said Jonathan Diehl and George Blymer certify under oath "that previous to the 8th day of July, 1868, they had no notice either from the said Josiah S. Diehl or the United States, nor from any other party, that the said Josiah S. Diehl had failed to perform his said contract. That the first knowledge or intimation they had was obtained from a circular issued out of the Office of the Auditor of the Treasury, dated July 8, 1872, addressed to them and demanding payment of the above sum. The sureties further represent that at the time they became sureties for said Josiah S. Diehl, they had no knowledge of the character or length of the route over which the mail was to be conveyed. That the nearest point of said route is situated more than one hundred miles from their place of residence. That neither of them had ever been in the district of country wherein said route lay. They also claim that the amount for which said Josiah S. Diehl agreed to carry the mails was totally inadequate, and that the amount actually paid by the Government was no more than just for the labor and cost of transporting the mails, and that the Government is not, therefore, in equity a loser.

They further state that they were induced to go on the bond of said Josiah S. Diehl by B. N. Garretson, who was a mail-contractor in whom they had confidence, and assured them that it was all right, that there was no danger, that he would go on the bond himself, but afterward merely certified *to their responsibility*; that they always

supposed that said Garretson was on the bond, for had they not expected that he was to go on it with them they would never have signed it, as they had no knowledge of such matters, and relied entirely on Garretson, and they solemnly aver that they were deceived by said Garretson, and that their signatures were obtained through false representations.

From further information from the Post-Office Department, the route referred to crosses the Potomac River, subjecting the contractor to the expense of ferriage, and the bid of the present contractor, Mr. Little, being the lowest, was deemed too high, and an offer of $780 per annum was made him, (it being the maximum rate,) that is, $10 per mile per annum is the maximum rate allowed for once a week service, or $60 for six times a week service; this was for six times a week. The said Mr. Little, the present contractor, declined the offer of $780 for the reason that the expense of ferriage would be $1 per day, besides four toll-gates on the route. It would seem from this statement that the tolls, expenses of horses and driver, would cover nearly or quite all that is now paid for carrying the mail over that route, and that the bid of Josiah S. Diehl must have been made with but little or no proper understanding in regard to the route he bid upon, or the service he was called upon to perform. Under all these circumstances the Post-Office Committee recommend the passage of this bill, releasing from liability, as sureties on the bond of Josiah S. Diehl, Jonathan Diehl and George Blymer.

In behalf of the Committee on the Post-Office and Post-Roads.

JOHN HILL.

The Postmaster-General has no authority to cancel said bond only as given by act of Congress. Read letter from P. M. G.

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42D CONGRESS, 3d Session. | SENATE. | REPORT No. 494.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3812.]

The Committee on Pensions, to whom was referred the bill (H. R. 3812) granting a pension to Ann Woods, submit the following report:

Ann Woods, the pension claimant, is the widow of Bernard Woods. Her husband enlisted as a private on the 26th day of December, 1861, in a Massachusetts regiment (the Twenty-eighth regiment.) On the 24th of November, 1862, he was discharged on a surgeon's certificate of disability, which described the soldier's disease as double inguinal hernia. During the preceding six months he had been detailed as nurse in a hospital.

The record of the soldier shows his marriage to have taken place in 1834—twenty-seven years previous to his enlistment. After his discharge he returned home and died about the 10th of December, 1863.

The lieutenant of his company swears that the soldier was taken sick with a disease of the lungs while in South Carolina, in the line of duty, *in the fall of* 1863. In a later affidavit he swears it was in November, 1862, that Woods contracted a severe cold, by which he was rendered unfit for duty and was discharged. This occurred by reason of his exposure to the malaria in the rice-swamps of that region. One witness swears that Woods came home the latter part of the year 1863, sick of inflammation of the lungs; that he attended him as his physician for this disease until his death, on December 10, 1863—ten or twelve days after his return.

There is confusion here about dates. It is clear the soldier was discharged in November, 1862, and that he died more than a year afterward. Where was he in the mean time? The evidence does not answer this question, and we have given all there is before us material to the case.

The widow made claim for a pension in 1863, as early as October. This proves the physician must have been mistaken by a year at least, and that the soldier must have died in December, 1862. The record is against the claim, for that shows the soldier's disability to have been hernia. But these records do not always speak the truth, nor the whole truth. Shall we accept the evidence of the officer and physician? The committee incline to believe the testimony of these witnesses, and recommend the passage of the bill.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 495.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 3807.]

The Committee on Pensions, to whom was referred the bill (H. R. 3807) granting a pension to William D. Tomlinson, have had the same under consideration, and submit the following report:

William D. Tomlinson is the minor child of John A. Tomlinson, late a private in Company D, Second Illinois Cavalry Volunteers, who was drowned 1st June, 1863, his widow having married James M. Triplete, 18th March, 1866, and presented the petition as the guardian of the minor.

The Commissioner of Pensions rejected the claim because the soldier was not in the line of duty when drowned, but he was permitted by his commanding officer to leave the ranks while on the march through the neighborhood of his home, for the purpose of visiting his family. His body was found a few days after in a lake with marks of violence on the head, indicating foul play. There are three children, the youngest of which only is under the age of sixteen years, and he will be sixteen on the 10th June, 1874.

The committee recommend the passage of the bill.

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 496.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 3810.]

The Committee on Pensions, to whom was referred the bill (H. R. 3810) granting a pension to Anderson W. Scott, have had the same under consideration, and submit the following report:

The testimony shows that Anderson W. Scott, late a private in Company A, Fifty-eighth Regiment Illinois Volunteers, was enrolled on the 1st November, 1861, to serve for three years; was wounded in the thigh by gunshot at the battle of Shiloh, April, 1862; was discharged from the service, on surgeon's certificate of disability, July 26, 1862. That he applied for and obtained a pension, but was dropped from the roll upon the first biennial examination, having recovered from the disability, whereupon he again enlisted in Company A, One hundred and twenty-eighth Regiment Indiana Volunteers, on the 15th December, 1863, to serve for three years or during the war, and was discharged, upon surgeon's certificate of disability, at Columbus, Ohio, on the 27th June, 1865, because of a gunshot wound at the battle of Shiloh, 6th April, 1862.

It appears that petitioner made application to the Commissioner of Pensions to be re-instated upon the pension-rolls after his second discharge, alleging that his disability from the gunshot wound in the thigh still existed, and subsequent injuries, of which the records of the War Department give no account.

Joseph Blessing, second lieutenant of Company A, One hundred and twenty-eighth Regiment Indiana Volunteers, testified on the 28th January, 1870, that the petitioner, while in line and discharge of duty on a march from Nashville, Tennessee, to Whiteside Station, being overheated and perspiring, had to wade creeks and took severe cold, which settled in his head, causing disease in his head known as catarrh; and two of petitioner's comrades, members of Company A, One hundred and twenty-eighth Regiment Indiana Volunteers, testified on February 15, 1870, that on or about the 26th June, 1864, while in the line of duty near Resaca, in the State of Georgia, while loading cars, he slipped and fell under a barrel of pork, causing rupture in pit of stomach and on the right side, also injuring his privates. He seems not to have been treated in hospital for these injuries, and continued in service for twelve months afterward; or, if he was treated, no record-evidence is found. His neighbors, however, to the number of several hundred, testify to his sound bodily condition before he entered the service, and his total disa-

bility since his discharge, resulting, as they believe, from the several injuries which he received while in the service. They represent his head as being badly diseased with catarrh, his abdomen badly breached, his right shoulder and right arm badly shriveled, and of little or no account, all the fingers, except the index-finger, permanently shut in the hand, and cannot be opened, making his disability equal to the loss of a hand and a foot. They also testify to his good habits and integrity of character.

Examining-Surgeon I. H. Way reported 4th April, 1868, the result of a careful examination of petitioner, pronouncing him totally incapacitated for obtaining his subsistence by manual labor from hernia and injury of right hand. It is in proof that his hand was injured while handling boxes on a boat during his first period of service.

The committee cannot doubt from all the testimony that the present helpless physical condition of petitioner is largely the result of the several injuries received while in the service, and therefore recommend the passage of the bill.

O

IE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2479.]

on Pensions, to whom was referred the bill (H. R. 2479)
ion to Annie Maria Bailey, submit the following report:

y proves that the son of Mrs. Bailey, George H. E.
econd sergeant in Company F, in the Fifth Regiment
teer Infantry, commanded by Colonel William L. Schley,
sted on the 28th September, 1861, and was discharged
October 20, 1862, in consequence of insanity, by order
of War.
his insanity is thus stated by Colonel Schley: Having
d service and separated for some weeks from his regi-
chley visited it at Camp Hamilton, near Fort Monroe,
Arriving there he was hailed by Sergeant Bailey, who
confined in the guard-house by order of the major com-
giment. He was in irons, and under charge of having
ard and attempting to strike his superior officer. He
general court-martial, and sentenced to the Rip-Raps.
shows that he was struck on the head a severe blow,
bled profusely. Colonel Schley is of opinion that his
roduced by his confinement and trial and the excite-
t thereon. Others, including the surgeon in charge of
which the sergeant was sent, are of opinion the insanity
he blow on the head. It is beyond question that he is
, and must continue an inmate of an insane hospital
ice of his life. He is described as in a wretched condi-
-ragged, shoeless, and filthy. He was his mother's sole
e is more than four score years of age, nearly blind,
Colonel Schley says of this unfortunate man that, up
is enlistment, he was an officer of the Baltimore police
credit, resisted and refused to obey the orders of Mar-
e 19th of April, 1861, on the occasion of the firing upon
ts regiment on their passage through the city; that he
straightout man, fearing no one, and true to his Gov-
e was excitable, but at the same time easily ruled and
adds that, from the date of his enlistment to the period
never knew him to violate rules or orders, and that he

was a quiet and obedient soldier. Indeed, there is no blot upon his military history up to the period of his being put in the guard-house.

The committee think this a proper case for relief, and recommend the passage of the bill, with an amendment substituting the son for the mother.

42D CONGRESS, 3d Session. | SENATE. | REPORT No. 498.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. DAVIS submitted the following

REPORT:

[To accompany bill H. R. 3856.]

The Committee on Claims have considered memorial, claim, and House bill 3856, for relief of Henry Fülenwider, deceased, of Alabama, and make the following report:

Bill appropriates $10,892.85 for transporting daily mails between Mobile and Montgomery, Alabama, from April 1 to May 31, 1861, at the contract price of $65,000 per year. May 27 Postmaster Blair issued an order suspending mail-contracts in the rebellious States.

Proof is clear that Fülenwider, under contract with Post-Office, transported mail between Mobile and Montgomery, Alabama, during the time named, from April 1 to May 31—sixty days—and that he or his heirs have not been paid; his death took place early in 1861, and the evidence is he took no part in the late war; that he died poor, and left a helpless family. There is a House report, which gives nearly all the facts, which is sustained by the proof and papers accompanying this claim and bill.

The question is, will we pay for mail-service in the States in rebellion when the service was rendered previous to Postmaster-General Blair's proclamation, May 27, suspending all mail-service after May 31, 1861? Report of House is made part of this report.

The Committee of Claims, to whom was referred H. R. No. 1112, for the relief of the heirs of Henry Fülenwider, deceased, having had the same under consideration, ask leave to report:

That a contract was made on the twenty-fourth day of April, in the year one thousand eight hundred and fifty-eight, between the United States and Henry Fülenwider, and that the said Fülenwider was accepted as contractor, according to law, for transporting the United States mail on route No. 7002, at sixty-five thousand dollars per year, for and during the term commencing the first day of July, in the year one thousand eight hundred and fifty-eight, and ending with the thirtieth day of June, in the year one thousand eight hundred and sixty-two; that it was stipulated and agreed in the contract "that the Postmaster-General may discontinue or curtail the services in whole or in part, in order to place on the route a greater degree of service, or whenever the public interests require such discontinuance or curtailment, or for any other cause." The present Postmaster-General under date of January 9, 1873, certifies that the following certificates that mail-service was performed on route No. 7002, from Montgomery, Alabama, to Mobile, Alabama, during the months of April and May, 1861, are true copies of the originals now on file in the Post-Office Department, to wit:

(A.)

STATE OF ALABAMA, *Montgomery County, ss:*

I hereby certify that mail-service was performed on route No. seven thousand and two, (7002,) from Montgomery, Alabama, to Mobile, Alabama, during the months of April and May, one thousand eight hundred and sixty-one, (1861.)

(Signed) N. BLUE,
Clerk in post-office at Montgomery, Alabama, during the time specified as above.

MONTGOMERY, ALABAMA, *April*, 1871.

Witness—
M. L. MOSES.

(B.)

STATE OF ALABAMA, *Montgomery County, ss:*

I hereby certify that mail-service was performed on route 7002, from Montgomery Alabama, to Mobile, Alabama, during the months of April and May, 1861.

(Signed) LLOYD BOWERS,
Late Postmaster at Mobile, Alabama.

MOBILE, ALABAMA, 19*th April*, 1871.

Witness—
M. L. MOSES.

By an act of Congress in relation to the postal service, approved February 28, 1861, it was provided "That whenever, in the opinion of the Postmaster-General, the postal service cannot be safely continued, or the post-office revenues collected, or the postal laws maintained, on any post-route, by reason of any cause whatsoever, the Postmaster-General is hereby authorized to discontinue the postal service on such route, or any part thereof, and any post-offices thereon, till the same can be safely restored, and shall report his action to Congress." In compliance with this law, Postmaster-General Blair issued the following order:

(C.)

POST-OFFICE DEPARTMENT,
Washington, May 27, 1861.

All postal service in the States of Virginia, North Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas will be suspended from and after the 31st instant. Letters for offices temporarily closed by this order will be forwarded to the dead-letter office, except those for Western Virginia, which will be sent to Wheeling.

(Signed) M. BLAIR,
Postmaster-General.

The reasons given by Postmaster-General Blair for continuing postal service so long in the Southern States, after, as in the case of Alabama, the ordinance of secession was passed, are a good argument for the payment of this claim. He says:

"The chief reason for this was that the mails alone afforded the means of diffusing any correct information among the people of the South and disabusing their minds of the prevalent errors which the conspirators had availed themselves of to organize the insurrection. I felt assured that the expressions of public sentiment, which would be evoked on the first act of war, if allowed to reach the people of the South, would go far to break down the conspiracy.

"The postal service afforded the best means to communicate to the people of the South the judgment which I was confident the civilized world would pronounce against the rebellion when its real purpose was distinctly seen; and although I knew that the instruments of the revolutionary despotism, temporarily established there, were doing everything in their power to suppress all correct information, it was, nevertheless, apparent that information of the most important character was disseminated through the mails."

The following certificate is furnished by the Auditor for the Post-Office Department:

OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT,
Washington, March 29, 1872.

I, John J. Martin, Auditor of the Treasury for the Post-Office Department, do hereby *certify the annexed to be a* true and correct transcript of the account of Henry Fülen-

wider, late contractor on route 7002, in the State of Alabama, as the same appears on the books of this office.

Witness my hand and official seal at the city of Washington the day and year above written.

(Signed)

J. J. MARTIN, *Auditor.*

Alabama.

Henry Fülenwider, late contractor, in account with the United States.

Dr.	Cr.	
To.....	By transportation of mails on route 7002, Alabama, from April 1 to May 31, 1861, at $65,000 per annum	$10,892 85
.....		
.....		
.....		

The committee are of the opinion that compensation is due for the services rendered, and accordingly report the accompanying bill and recommend its passage.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 499.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 3802.]

The Committee on Pensions, to whom was referred the bill (H. R. 3802) granting a pension to Obadiah Whiston, have had the same under consideration, and submit the following report:

The applicant is the father of Ellery Whiston, late a private in Company G, Fourth Regiment of New York Volunteers, who died in the service July 17, 1861.

The testimony is full in respect to the service and death of the said Ellery. The only question to be considered is the alleged dependence of the applicant for support upon deceased. The claim was rejected by the Commissioner of Pensions on the ground that such dependence was not shown to exist either at the date of enrollment or death of the son. It is in proof that deceased had contributed at least a portion of his earnings to the common stock, for the support of the family, prior to going into the service, but then he was a member of the family at the same time. The applicant, upon his own showing, held a position in the New York custom-house at the date of his son's enlistment, which he continued to hold down to 1866, first receiving three and then four dollars per day, being a sufficient income for the support of his small family, consisting then of himself, wife, and daughter, his sons, three in number, all being in the Army, two of whom, with the daughter, yet survive, upon whom, for anything the committee can see, he is and was as much dependent for support as upon the deceased son.

The applicant's own statement shows that for nearly seven years after the death of his son Elle ry he was in receipt of from $900 to $1,400 annually, and whatever his condition may now be, the committee cannot regard his claim as coming within the spirit of the pension-laws.

C

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 500.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 3809.]

The Committee on Pensions, to whom was referred the bill (H. R. 3809) granting a pension to Henry H. Kaiser, have had the same under consideration, and submit the following report:

Petitioner mustered into Company M, First Missouri Cavalry, on the 1st of August, 1861, to serve for three years, and was honorably discharged on the 20th of August, 1864; and again enlisted in Company H, Eighth Regiment United States Veteran Volunteers, on the 8th day of April, 1865, for one year or during the war, and was mustered out on the 9th day of April, 1866, by reason of expiration of term of service.

Petitioner alleges that during the last term of service he contracted a disease in the hip-joint, which has resulted in permanent disability. He complained, occasionally, while in the service, and proves, by one of his comrades, that on one occasion, while at work on a wharf in Washington, D. C., he was relieved from duty on account of a pain in his hip, and was afterward put on light duty. His captain testified, 9th April, 1872, that, in his opinion, petitioner was a sound man when he entered the service, but does not state in what condition he left it.

Petitioner engaged to serve as a porter and messenger in one or more of the Departments after leaving the military service, but, gradually growing worse, went into hospital on 18th of May, 1868, where an operation was performed which relieved him but left him a cripple for life. About four inches of the upper end of the thigh-bone was removed, and it appears that he is now, or was recently, in the charity ward of the Providence Hospital.

There is not a particle of evidence from the records to show that he complained while in the service. He was not treated or examined by a surgeon, but, on the contrary, his discharges both show that no reason existed why he should not be re-enlisted, so far as was known to the medical authorities. It is very probable that the disease was contracted while in the service, as stated by the applicant; this decay of the bone being slow, was not considered of much consequence until after he was mustered out. Be that as it may, he is without such evidence as common prudence requires to support his claim to a pension.

42D CONGRESS, 3d Session. | SENATE. | REPORT No. 501.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. DAVIS, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom were referred the memorial and papers of Wells, Fargo & Co., (mail sub-contractors,) for loss of property, &c., by Indians, make the following report:

In 1864, Benjamin Holladay, of New York, contracted with Post-Office Department for carrying United States mails daily, from Saint Joseph, Missouri, to Salt Lake, Utah, commencing October 1, 1864, and ending September 30, 1868. They sub-contracted with Wells, Fargo & Co., who make claim for $67,527.65, for property (such as stables, feed, &c.) destroyed on the route, at several points, by Indians, and for furnishing armed men to protect the mails. The account is very loosely made up, excessive charges made, with but little proof to sustain them. There is no evidence or claim made that the Government agreed to protect in any way the property of the contractors, and if there was, Holladay was the contractor, and not Wells, Fargo & Co.

On inquiring at the Post Office Department, we find that the Department received numerous complaints that the parties failed to comply with their contract, and a special agent was sent out, who reported there were failures, &c. The parties have been paid in full by the Department, and a receipt is on file.

Committee report adversely, and ask to be discharged.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 502.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 1559.]

The Committee on Claims, to whom was referred the bill (H. R. 1559) for the relief of William G. Barnard, late a clerk in the custom-house in the city of New York, submit the following report:

The bill directs the Secretary of the Treasury to pay to Mr. Barnard the sum of $979.16, balance due him for services as clerk in the custom-house in the city of New York.

The memorial shows that Mr. Barnard, having been disabled by wounds received in the line of duty as a soldier, was appointed upon a special letter from President Lincoln, to the position of a messenger by the late collector, Hiram Barney; that without cause assigned he was discharged on the 15th day of August, 1865; that during the entire period he received only the pay of a messenger, never having been formally appointed to a clerkship; that for twenty-six and one-half months he discharged, efficiently and satisfactorily, the duties of a clerk at a desk in the custom-house, of which the salary for a part of the time was $1,000 per annum, and for the remainder $1,200, while his own salary as messenger was, for the corresponding periods, $600 and $750 per annum.

For this difference of pay, amounting to $979.16, he claims payment, and the House bill allows him. He refers to the act of Congress of August 26, 1842, (5 Stat. at Large, p. 525,) and argues that this law specially provides for this class of cases, and while prohibiting allowance or compensation to clerks or other officers for extra services which they might be required to perform, makes special exception in favor of watchmen and messengers, viz:

> And no greater allowance shall be made to any such clerk or other person than is or may be provided by law *except to watchmen and messengers*, for any labor or service required of them beyond the particular duties of their respective stations, rendered at such times as does not interfere with the performance of their duties. (Sec. 11.)

To show that while holding the appointment of messenger he performed the appropriate duties of a clerk well and faithfully, in the summer of 1863, and until August, 1865, he submits the affidavits of Benjamin F. Wyman, chief clerk and acting deputy collector, and of Thomas D. Knower, assistant chief clerk, of the sixth division in the New York custom-house.

Mr. Barney certifies, under date of May 30, 1866, that he appointed Barnard to be a messenger at a salary of $600 a year; and upon the recommendations he produced he should have appointed him to a clerkship or

special aid, or some other office, with a salary of $1,000 or more a year, but for the loss of an arm, which seemed to disqualify him for any duties but those of messenger.

Mr. Wyman, chief clerk of the sixth division, swears that from the summer of 1863 Barnard, though a messenger, was acting as a clerk and doing duty as such, keeping record of invoices received from the order-desk and sending them to their respective departments; that he continued doing such duty up to the time of his removal in August, 1865; that during this period Barnard performed his duty as clerk well and faithfully, and that the books of said division, during most of said period, show his handwriting as clerk.

Mr. Knower, assistant chief clerk of the sixth division, swears that about the 1st of June, 1863, Barnard was detailed by direction of H. Calhoun, deputy collector, to perform duty as clerk in the division; and that he did perform that duty, as detailed by Mr. Wyman, well and faithfully, until about the mouth of August, 1865, the work being performed under the immediate supervision of the witness.

The account as made out and certified by Mr. Knower, chief clerk, as above, and by Mr. Wyman, at the custom-house on September 28, 1865, shows that there is a balance due to the claimant of $979.16, as the difference between the pay of a messenger and clerk during the periods that Barnard was performing the duties of a clerk. They also certify that there was a vacancy in the clerkship, the duties of which Barnard performed.

The certificate is as follows:

I hereby certify that William G. Barnard has filled the position of registry clerk in the sixth division from the 1st day of June, 1863, to the 15th of August, 1865, the former appointee being detailed for other duty, until his removal, October 1, 1864, since which time there has been no appointment to the desk.

CUSTOM-HOUSE, NEW YORK, *September* 28, 1865.

The majority of the committee are of opinion that this case is not within the equity of the statute quoted, and that the bill ought not to pass.

C

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 503.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 1195.]

The Committee on Pensions, to whom was referred House bill 1195, *granting a pension to Melissa Rankin, mother of Oliver S. Rankin, submit the following report:*

The mother was mainly dependent upon this son for support. She had several young children. Oliver sent her his money from the Army while he was in the military service. She has no property.

On the 5th November, 1861, Oliver was, by warrant signed by the colonel commanding the Tenth Regiment Indiana Volunteers, appointed ordnance sergeant, to rank as such from 18th September, 1861.

The adjutant-general of Indiana certifies that the official muster-out rolls on file in the office show that Oliver S. Rankin was enrolled ordnance sergeant Tenth Indiana Volunteer Regiment, on 18th September, 1861, and that he was on that day duly mustered into the military service of the United States for the term of three years, by Colonel Wood, mustering officer. He was discharged, by order of Colonel Manson, upon finding that the regiment was not entitled to such an officer.

On the 12th June, 1862, at the headquarters of the Twenty-second Brigade of the Army of the Ohio, an order was made by Brigadier-General Manson that Lieutenant O. S. Rankin, acting assistant commissary of subsistence Twenty-second Brigade of the Army of the Ohio, should have leave of absence for sixty days on important business, at the expiration of which time he was ordered to report in person to the headquarters, then near Booneville, Mississippi.

Anthony R. Ravenscroft, captain of Company I, Twenty-second Regiment Indiana Volunteers, was, in the year 1863, military conductor on the Louisville and Nashville Railroad. He swears that young Rankin frequently passed over the road during that year. His passes were signed by Colonel Truesdale, chief of police of the Army of the Cumberland.

About the 1st of August, 1863, he passed on the train from Louisville to Nashville, and told the witness that he belonged to the secret service, and was on his way South, through the lines, and showed him some letters he had procured for that purpose. He afterward heard that Rankin was executed.

William M. Wiles, who was lieutenant-colonel of the Twenty-second Regiment Indiana Volunteers, and who was on duty at the headquarters Department of the Cumberland, as provost-marshal, testifies that Ran-

kin was employed in the secret service of the Army of the Cumberland for several months in the year 1863, and up to and including the month of August. He states that he was informed by William Truesdale, who was in charge of the secret-service men of the Army, that he sent Rankin to Green Castle, Indiana, his former home, where he, by expressing himself as a rebel sympathizer and determined to join the rebel army, secured letters of recommendation from rebel sympathizers of that place to Major-General John C. Breckinridge, of the rebel army. Truesdale also informed this witness that Rankin succeeded in reaching General Breckinridge's headquarters with his letters of recommendation, but was suspected as a spy from the Union Army, arrested, tried, and executed as such.

General Garfield, a member of the House of Representatives, furnishes the following statement to this committee:

WASHINGTON, D. C., *April* 12, 1872.

DEAR SIR: In answer to your inquiry, I have to say that, in the early autumn of 1863, while I was chief of staff of the Army of the Cumberland, young Rankin came to me at the headquarters of the Army, at Winchester, Tennessee, for an order to pass our lines, for the purpose of obtaining information of the whereabouts and movements of the enemy. I have understood that he never returned, and it was supposed he fell into the hands of the enemy and was executed. Of this, however, I have no information. I only know of his passing through the lines from Winchester, Tennessee. If he died in the service his mother should have a pension.

Very truly, yours,

J. A. GARFIELD.

Hon. D. D. PRATT,
United States Senate.

The evidence is that since his reputed execution young Rankin has never been heard of.

A large number of the citizens of Putnam County, Indiana, where Mrs. Rankin lives, including county officers and the professional gentlemen of Green Castle, join in a petition to Congress that she be allowed a pension. They speak of her son as having served as "a private, commissioned officer, and scout."

The committee are of the opinion that, inasmuch as Oliver S. Rankin was not in the military service at the time he was executed as a spy, but was a civilian, and probably receiving the high wages due for such dangerous service, his mother has no legal claim to a pension, and they recommend the indefinite postponement of the bill.

O

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 504.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2412.]

The Committee on Pensions, to whom was referred House bill No. 2412, granting a pension to Helen M. Smith, submit the following report:

Mrs. Smith's husband was employed by Charles W. Moulton, as captain and assistant quartermaster of volunteers, while stationed at Beverly, in West Virginia, late in the fall or early in the winter of 1861, to serve in the Quartermaster Department. Smith died in February, 1862. He was employed as a general superintendent or overseer of outdoor work. He was employed in bridging streams which supply-trains were compelled to cross in moving supplies from the points on the railroad to the Army at or near Beverly. In building these bridges at some distance from the post, Smith was much exposed by day to storms and severe weather, and there was little opportunity for shelter at night. He had typhoid fever brought on in consequence of this kind of exposure and severe duty.

But he was a civilian; he was not an enlisted soldier detailed to this service, but a civilian, working for a civilian's pay. For this reason the committee are constrained to recommend that the bill do not pass.

O

42D CONGRESS, 3d Session. | SENATE. | REPORT No. 505.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3820.]

The Committee on Pensions, to whom was referred the bill (H. R. 3820) granting a pension to Thomas R. Hardwick, submit the following report:

This case is presented on the following papers:

1. A petition of sundry citizens of Genesee County, New York, who pray that an invalid pension may be granted to Thomas R. Hardwick, the only cause assigned being that he served upward of three years in the Fourteenth Regiment New York Volunteers and the Eighth Regiment New York Heavy Artillery.

2. The soldier's discharge, dated the 30th day of May, 1865.

3. The certificate of W. T. Cowan, who describes himself as late captain of Company D, in the Fourteenth Regiment, that Hardwick enlisted in his company April 16, 1861, as first sergeant, was sworn into the United States service, and was a good and faithful soldier.

4. The affidavit of one Owen, a physician of forty years' standing, that Hardwick was a sound, healthy man before going into the service, and was an invalid when he came out, and has suffered from disease since to such an extent as to make him unfit for labor, contracted, as he believes, while the soldier was in the service. What the disease is he does not say, nor how it was contracted.

5. The certificate of another physician, who has treated the soldier for six months for chronic inflammation of the urinary passages and chronic enlargement of prostate gland, from which complaint he expresses the opinion that Hardwick is permanently disabled from attending to his ordinary business.

No allusion is made to any application for pension before coming to Congress. The committee submit that, if the case is a meritorious one, the Pension Office is the proper place to obtain a pension. When he has tried there it will be time enough for Congress to examine his case, if the decision should prove adverse.

The committee recommend that the bill be indefinitely postponed on the present condition of the proofs.

C

42D CONGRESS, 3d Session. | SENATE. | REPORT No. 506.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3836.]

The Committee on Pensions, to whom was submitted the bill (H. R. 3836) granting a pension to Laura Baker, submit the following report:

Laura Baker is the widow of Lovell Baker, who was a private in Company K, Twelfth Regiment Connecticut Volunteers. He was enrolled January 3, 1862, and died July 5, 1863, in barracks, general hospital at New Orleans, of fracture of the tibia, (large bone of the leg.) The affidavit of the captain of Baker's company shows that the soldier, after accompanying his regiment on the first Red River expedition in April, 1863, as far as Bisland, and being too sick to go farther, was sent back to Brashear City. While there Baker got a pass to go to New Orleans, and attempted to get on the train while it was in motion, and in doing so fell to the ground and the wheels of two of the cars passed over one of his legs above the knee and crushed it. From this wound he died in the hospital. He was sober at the time, and a temperate and good soldier.

The officer did not see the accident but got the version of it from two members of the same company who were present, one of whom is believed to be dead and the other is supposed to be in the Regular Army, but his whereabouts are not known. The witness expresses the opinion that Baker came to his death without any carelessness or neglect on his part. This opinion is, of course, founded upon what the two soldiers informed him. They told how the accident happened in consequence of his attempting to get on board the train when in motion.

We can imagine such a state of things that it would not be carelessness to attempt this feat, as if, for example, Baker had been a railroad man and was in good health, or the cars were moving very slowly. But upon these points we have no information. And we have a right to infer from the fact that the accident did occur, that it was not an act of prudence in him to attempt to board the car at the time, and in his condition of health, while the train was in motion.

The committee feel constrained to recommend that the bill do not pass.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 507.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3838.]

The Committee on Pensions, to whom was referred the bill (H. R. 3838) granting a pension to Ellen M. Cummings, submit the following report:

The bill asserts that she is a deaf-mute, and sister of William A. and Gordius B. Cummings, who were killed in battle during the late civil war, and upon whom she was solely dependent for support.

There is no evidence in the case. There are two papers proceeding from the same person, James H. Smith, of whom the committee have no other information except that his post-office box is 241, at Newark, Ohio. He makes the memorial and writes the two letters. He describes certainly a very hard case, and one well calculated, we should think, to arouse the sympathy and call forth the charity of the good people among whom this unfortunate woman dwells.

If the case, as presented in these papers, were supported by proofs, the committee would not feel warranted in recommending the passage of the bill. But there is absolutely no proof of the case as made in the memorial.

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42D CONGRESS, 3d Session. | SENATE. | REPORT No. 508.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3840.]

The Committee on Pensions, to whom was referred the bill (H. R. 3840) granting a pension to Susan E. Alger, submit the following report:

Mrs. Alger is the mother of Warren A. Alger, a private in a Massachusetts regiment, who was made a prisoner of war, sent to the prison at Andersonville, and died there in 1864, and, as is supposed, of disease contracted in the service. He enlisted shortly before attaining twenty-one years of age. Up to that time he had contributed his wages to his mother's support, and sent her money for the same purpose after entering the Army.

A few months before his capture he had married. His widow obtained a pension, but is now dead. The present bill gives a pension to the soldier's mother.

She describes herself as in delicate health, receiving a small pittance from the State, but wholly inadequate for the supply of her wants.

There are no papers in the case, except the memorial and the joint affidavit of two persons, who support that portion of the mother's case which relates to the aid she received of her son, her present condition of health, and the inadequacy of her present means of support.

The committee are unable to recommend the passage of the bill.

First. The proofs are not satisfactory.

Second. If they were, they could not establish such a precedent.

When her son died he was of age and had a wife. The mother had no legal claim on him for support, and the son's first duty was to his wife. The law, because of this duty, gave his widow a pension. The promise of the Government was performed and its duty at an end when that pension was granted.

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 509.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 26, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3841.]

The Committee on Pensions, to whom was referred the bill (H. R. 3841) granting a pension to Harper Smith, submit the following report:

The evidence in this case is satisfactory that Harper Smith was a duly enlisted private in Company B, Twenty-third Regiment, Pennsylvania Volunteers, and that, while in the service, by the accidental discharge of his gun while in the line of his duty, he was wounded in his right hand, and subsequently, by direction of the surgeon of the regiment, the hand was amputated.

The accident was as follows: On July 4, 1861, near Martinsburgh, Virginia, while on a foraging expedition, he captured an old rebel rifle, and while returning to camp, in crossing a fence, the lock struck against a rail and the piece exploded. He was first sent to hospital at Hagerstown, and remained there until a short time before muster-out. The amputation was performed by Surgeon Green.

The report from the hospital stated that *John* Smith, of the company and regiment above stated, was admitted July 7, 1861, for amputation. The report of the Adjutant-General, as originally furnished, showed that John C. Smith enlisted in the company and regiment August 2, 1861, and that he deserted in June, 1863, but there was no record of Harper Smith.

The captain of the company confirms the statement of the claimant as to the time and circumstances of the wound and the subsequent amputation as given above; and so does Dr. Gross, the surgeon of the regiment, who assisted in the amputation.

The records of the War Department were, at a recent date, corrected, and the Adjutant-General, upon such correction being made, furnished the Commissioner of Pensions with the following record of Harper Smith's military service and disability:

Enrolled April 18, 1861, and mustered as musician April 21, 1861. Roll for July 31, 1861, reports him present and mustered out with company, with remark, "Sick at hospital at Hagerstown, Maryland, since July 13, 1861." This man, while in the performance of his duty under military orders, was, on or about July 4, 1861, near Martinsburgh, Virginia, accidentally wounded in the right hand, near the wrist, by the discharge of a musket, under the following circumstances: The regiment having crossed into Virginia in advance of supplies, orders were issued authorizing the men to procure provisions by foraging, and while foraging for provisions in pursuance to said orders, he (Harper Smith) found a musket in a farm-house which had been recently abandoned by the rebels, and while returning to camp with the captured musket, the lock of it struck on a rail and exploded the charge; his right hand was amputated about six inches below the elbow. He was entitled to be discharged on account of the wound herein specified. This statement is furnished Commissioner of Pensions to take the place of the one furnished him July 27, 1872.

This correction of the record made out a clear title to a pension, bu more than five years had by this time elapsed since Smith had made hi application, and the Commissioner was of opinion that the claim wa barred by the 6th section of the act of 1864. Hence this appeal t Congress.

It is very clear that had the record spoken the truth originally, M Smith would long since have been in the enjoyment of a pension.

The committee, therefore, recommend the passage of the bill withou amendment.

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 510.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 26, 1873.—Ordered to be printed.

Mr. MACHEN submitted the following

REPORT:

[To accompany bill H. R. 3874.]

The Committee on Claims, to whom was referred the bill (H. R. 3874) for the relief of Benjamin Crawford, submit the following report:

The memorialist claims to have been the patentee of what is known as "The Crawford Patent Steam Blower," in 1861, the design of which is to cleanse boilers of accumulating mud and filth in them, thereby increasing the generation of steam very rapidly.

The blowers were applied to a large number of vessels in the employ of the Government on the Mississippi River during the years 1862 and 1863, amounting in all to something over four hundred blowers, one being applied to each boiler.

The value of the improvement is established by the testimony of numerous engineers employed in that service, and there is no testimony controverting the statement of the memorialist that there was no payment by the Government for their use. The exigencies of the service did not allow of formality in the application of the invention, and their use seems to have been considered as a necessity by those controlling the vessels, and their use assented to by memorialist under the belief that he would be paid therefor by the Government. Twenty-five dollars was the price per boiler for the blower, applied under ordinary circumstances, but as the Government had a great number of them the price has been much reduced by the bill from the House of Representatives. A letter from the Navy Department states that it is believed the blowers were on the vessels, or most of them, when they came into the use of the United States, but upon inquiry at the Department there seems to be no sufficient evidence to show that it was so, and is only an "impression" of that Department, which claimant denies.

The question does not necessarily involve the validity of his claim, if ever settled, that the blowers were on the vessels, as there is no proof to show that he, claimant, had ever been paid for their use. The House bill provides for the payment of $5,000 in full for his claim against the Government, and considering the positive advantage established by the tertimony to have been derived from the use of his invention, the committee concur in the propriety of paying him that sum, and recommend the passage of the bill.

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 511.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 26, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3870.]

The Committee on Claims, to whom was referred the bill (H. R. 3870) for the relief of Mark Davis, submit the following report:

Mr. Davis formerly was engaged largely in business in Virginia and New Orleans, but as far back as 1843 retired from active business, and from that time has been living at Petersburgh, in that State. Of course he is an old man. He owned considerable real estate in the city of New Orleans, which was managed by an agent there, who collected and remitted the rents to Mr. Davis, and upon these he mainly depended for his support. He complains that his real estate and a large number of promissory notes were seized by the military authorities, and large collections of money made.

The real estate in New Orleans consisted mainly of stores under rent. This was seized by the military authorities, and, after being held by them for a certain period, was turned over to the supervising special agent of the Treasury Department on the 1st day of September, 1863. The agents of that Department had charge of it and collected rents therefrom until it was transferred to the officers of the Bureau of Refugees, Freedmen, &c., in August, 1865. The net amount of rents collected from this property and accounted for by the agents of that Department was $4,165.65. This sum seems to have been realized from property situated on three streets—Tchapitoulas, Saint Charles, and Magazine streets. While the property was in possession of the military authorities considerable sums of money were received by them on account of rent of property belonging to alien enemies and others, but no details were found from whom received or on what property collected.

The seizure of Mr. Davis's property seems to have occurred in February, 1863. Colonel Holabird, chief quartermaster, takes up on his account for that month $3,187.60 for rent of seized houses, but not more than $275.25 of this sum could have been received of Davis's agent. He also received large quantities of confederate currency from various sources, which was turned over to the Treasury Department, where it remains stored at this time.

The leases and rent-notes referred to by the claimant in his memorial do not seem to have been turned over to the Department. These facts

are gathered from the letter of the Secretary of the Treasury of January 30, 1873, to the chairman of the Committee of Claims in the House.

The committee do not undertake to examine the two questions in this case—the claimant's loyalty and the amount of money realized from the seizure of his property, which has gone into the Treasury. The purpose of the bill is to refer the determination of these questions to the Secretary of that Department. The committee see no objection to that reference. So that the bill is so amended that the inquiry shall relate solely to what was actually collected in the way of rent and upon the promissory notes by the officers of the United States and went into the Treasury. They recommend the passage of the bill.

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 512.

IN THE SENATE OF THE UNITED STATES.

FEBUARY 26, 1873.—Ordered to be printed.

Mr. WRIGHT, from the committee to inquire into certain allegations against Hon. Powell Clayton, submitted the following

REPORT:

The undersigned select committee, to whom was assigned the duty of inquiring into certain charges against the Hon. Powell Clayton, a member of this body from the State of Arkansas, have had the same under consideration, and submit the following final report:

On the 10th of June last they submitted what they denominated, and which was accepted as a partial report, which they here incorporate to avoid repetition, and that the conclusion at which they have finally arrived may be the more readily understood.

JUNE 10, 1872.—Ordered to be printed.

Mr. MORRILL, of Maine, on behalf of the chairman, Mr. Wright, of Iowa, from the committee to inquire into certain allegations against Hon. Powell Clayton, submitted the following

REPORT:

The Special Committee, upon whom was imposed the duty of investigating certain charges against the Hon. Powell Clayton, a member of this body, beg leave to submit the following partial report:

On the 9th of January, 1872, Mr. Scott, from the "Joint Select Committee to inquire into the condition of the late insurrectionary States," &c., reported to the Senate that in the prosecution of their inquiries the testimony of certain witnesses (Edward Wheeler and Wm. G. Whipple, of Arkansas) "tended to impeach the official character and conduct of a member of this body," but as they held that "the subject-matter to which said testimony related did not come within the limits of the investigation they were directed to make," they declined to hear other witnesses, and thereupon adopted the following resolution:

Resolved, That the committee report the testimony taken before the committee affecting Senator Clayton and Mr. Edwards, a Representative from Arkansas, to the Senate and House of Representatives, with a recommendation that each House take such action as it may deem proper.

The testimony of Wheeler and Whipple referred to in the report and resolution they also reported to the Senate for such action as might be

deemed advisable, and on the same day the Senate adopted the follo ing resolution:

Resolved, That the report of the committee and the testimony accompanying be ferred to a special committee of three, with power to send for persons and papers, investigate and report upon the charges therein contained against Hon. Powell Cl ton, a member of this body.

Pursuant to the command of the resolution, and the powers therel conferred, the committee met on the 18th day of January, and enter upon the discharge of their duties.

James L. Hodges, esq., of Arkansas, appeared before them and ask leave to prosecute the charges, and was permitted to do so, and accor ingly appeared by himself and counsel, S. M. Barnes, esq. Senat Clayton also asked to appear as well in person as by counsel, whi request was granted, and he designated as such counsel the Ho Thomas M. Bowen and Hon. John McClure, of Arkansas.

Witnesses were subpœnaed from time to time, upon the request of tl parties and as the committee deemed necessary. It is proper to sta that the parties each demanded the attendance of many other witnesse which demand was declined, but not until the committee were thorough satisfied that they were possessed of the essential facts touching tl matters submitted for their investigation. They held almost daily se sions from the date last named until and including the 14th day of Ma when the testimony closed. During this time they examined thirt eight witnesses, and have before them, in form of documents and tl testimony of said witnesses, matter covering about 5,000 manuscri pages.

We are justified in saying that much of it was taken and received *bene esse*. In other words, for the prosecution, it was claimed that the would be able to show certain combinations, conspiracies, and corru agreements which, if established, would make such testimony competen and relevant. For the defense it was insisted that this state of cas could not be shown, and in no event could such testimony be admissibl under the resolution of the Senate and the matter submitted for ou investigation, but in view of the possibility of its being so held the submitted their testimony to meet the case supposed by the prosecution

As it was impossible to say in advance what, in this respect, the testi mony might finally establish, and as witnesses were in may instance here from a great distance and anxious to leave, we deem it better t take the testimony, leaving the question of its ultimate relevancy to b determined when deciding the whole case. This state of the recor rendered it necessary to examine with care the testimony of very man of the witnesses, to enable us to determine just what was and was no competent in view of the issues made.

This work, to some extent, remains unperformed. It could not well b otherwise when we refer to the time the testimony closed, and the othe and constant duties pressing upon each member of the committee. A the session is drawing to a close, however, and we hold it but th plainest justice to a member of this body that it should at least b known what was the general result of our investigation, we hav deemed it best to submit the same to the Senate. We say this i due him, the Senate, and the country, and shall assume that this wi be accepted as true by all, without entering into argument in support a proposition so plain. The charges affect the standing and influence one who has the equal dignity and responsibility of any other memb of this body before the country and his constituency. If not sustaine it is eminently proper that he should be relieved. If sustained, the

the Senate owes it to itself, its own dignity, its own purity, its own self-respect, that he should be removed, and the people of Arkansas have upon this floor one who may be their fit, proper, and chosen representative.

Thus impressed and influenced, though unable, for reasons above stated, to arrange the testimony and report back such parts as they hold to be proper and relevant, and yet able to reach a conclusion, to them satisfactory, from their recollection of the evidence at the time it was being submitted, and their subsequent examination—we say, thus impressed, we have deemed it our duty to submit this partial report, reserving the right, at a time when the pressure of other duties shall not be so great, to submit with the testimony a further and final report.

If it should be asked, Why not now submit all the testimony? we answer: *First*, Because we know that much of it can have no possible bearing upon the question before us and the Senate, and its publication would involve a large and most unnecessary expense. *Second.* No useful end is to be gained by giving to the country a mass of testimony which only serves to show the bitterness of personal feeling existing between those prosecuting and their friends on one side, and the party accused and his friends on the other, which had its birth in the zeal of opposing political factions, to blacken and disparage the party integrity of those opposing them; which would only tend to still further disturb and distract the citizens of the State where they reside, and render more difficult the restoration of that peace and quiet so essential in all the States, and especially those so lately in insurrection. And this course is the more justified from a conviction which we cannot now escape, that not a little of it was offered by the parties more with the view of making political capital against each other, than in the hope or belief that it could have any influence upon the committee, or throw light upon the subject-matter under investigation. We do not propose to be the instrument of a purpose so foreign, and we most respectfully submit that the Senate should not and will not lend itself to the publication in advance of a mass of testimony which in no manner tends to elucidate the real question before them, and which, if published, while it might gratify the malevolence of parties, could not possibly serve any useful end. It would be worse than waste-paper.

We therefore submit this report, at present withholding the testimony, recommending that action shall be delayed until we are able to more carefully arrange the immense record before us, and present it in a form which will enable the Senate to act with greater safety and intelligence.

And now having stated something of the work performed and the grounds which seem to us to justify the course pursued, we come to the consideration of those matters which were submitted for our investigation and a statement of the conclusion reached. In doing this it seems to be eminently proper, and indeed logically necessary, to ascertain and settle the nature and scope of the charges made and the powers of the committee under the order of reference.

It will be seen that the report of the committee, which led to the present inquiry, states that the testimony submitted to them tended to impeach the official character and conduct of Senator Clayton. The resolution under which this committee is acting directs that the *report of Mr. Scott and the accompanying testimony* be referred, with power to send for persons and papers to investigate *the charges therein contained.* We therefore necessarily go to the report thus referred, in the first instance to see what the charges are. But here we find nothing, for it is only stated generally that the testimony before them tended to impeach the

official character and conduct of Senator Clayton. All that is of particular value thus far or in this language is, that the charges related to his *official* character and conduct. This of course must mean his official character and conduct *as a Senator*. With his official acts in other positions we have nothing to do, except as they may bear upon his office as Senator. To illustrate—he was governor of the State of Arkansas up to the time of his election as a member of this body. Now, whether his conduct and character in the gubernatorial office was such as to merit condemnation or praise, whether his administration of that office was honest or dishonest, wise or unwise, corrupt or otherwise, is a matter of no moment whatever, except as it may bear, in some legitimate manner upon his conduct and character in his present position.

Assuming for the present that our inquiries are limited to matter subsequent to his election, not, of course, rejecting those antecedents so far as they reflect light upon subsequent acts, we are led to inquire what these are; and here we are remitted to the testimony of Wheeler and Whipple, for as there are no specific charges in the report itself the testimony of these witnesses must alone stand in the place of charges, the information, or indictment. Than this, few things could be more indefinite or unsatisfactory. Without, by any means, conceding that any one should be held to answer charges thus made, so entirely wanting in everything approximating conciseness, clearness, or definiteness, we advert very briefly to some matters to which these witnesses most vaguely refer.

First. It is suggested rather than strongly claimed, that Senator Clayton was indicted by the grand jury of the United States circuit court for Arkansas, in April, 1871, for a violation of the twenty-second section of the enforcement act, (16 Stat. at Large, p. 145,) in granting a certificate of election, as governor, to General John Edwards, showing his election as a member of the House of Representatives in the Congress of the United States. The facts in connection with the issuing of this certificate will come under review in a subsequent part of this report, and we content ourselves at present with stating conclusions. And, first, the mere finding of the indictment would not of course so tend to impeach his official character and conduct, nor of course actually impeach it, as to demand action at the hands of the Senate. In the next place, if such finding possessed any significance it would lose it all, where, as the testimony and the record here conclusively show, he was discharged therefrom by the judgment of the court at a subsequent term (in October last) under a demurrer to the indictment; not for any formal or technical defect, but upon the broad and substantive ground, to state it briefly, that the governor of a State is not an "officer of election," within the meaning of said election.

This being so, by the judgment of the court he stood acquitted and discharged of course of all legal wrong. Then, if an officer, and the act was not fraudulent—that is, if he did not "fraudulently make any false certificate"—there was no criminal liability, and if there was no corrupt conduct or fraudulent act in this connection, it is submitted that all inquiry in this direction may be dismissed. But more of this hereafter.

In the second place, it is suggested, again most vaguely—it cannot be conceded to have the dignity of a specific charge—that he, by himself or friends, tampered with the grand jury finding the indictment. Senator Clayton was in Washington City at the time the indictment was found, and there is scarcely a scintilla of evidence that he had knowledge that such a thing was contemplated or threatened. There is certainly no pretense of proof that he, by himself, or others acting for him

or at his instance or request, made even the least attempt to influence the action of the grand jury presenting the indictment, and least of all would it be claimed that anything was done by himself, or any one ever so remotely connected with him, which could by possibility be regarded as either criminally or morally wrong. And when we add that it is worse than the sheerest pretense that anything there attempted was in the least connected with his official conduct or character, we dismiss this part of the case.

In the next place it is attempted to be shown that he improperly used his official position and influence as Senator to procure the removal of the witness (Whipple) from his office of district attorney, and General Catterson as marshal of the district of Arkansas. Whipple was district attorney and Catterson marshal at the time of finding the indictment. Both these gentlemen had been more or less active in their opposition to Senator Clayton's election to the Senate, through a contest almost unprecedented in its bitterness, whether viewed politically or personally. This was particularly true of Colonel Whipple. Senator Clayton may have been influenced, and doubtless was, not a little, in his efforts to procure their removal by their known opposition to him, as also by what he esteemed their unwarranted course in connection with the procurement of the indictment.

It is not material to inquire whether there was anything in their conduct touching the latter matter to warrant his feelings and judgment, since he did no more than what other Senators are constantly in the habit of doing, touching the displacement of their enemies and the appointment of their friends. That the action of these parties, in connection with the indictment, was not the movingcause of his opposition, is clear enough, from the fact that he was seeking their removal before it was presented, as abundantly appears from their own testimony, wherein the alleged charge is found. In his conduct in this respect we fail to see any official misconduct, and especially so as it appears that since these removals the Executive and Department of Justice have been successively, and more than once, appealed to by Colonel Whipple and General Catterson and their friends for re-instatement, and have been as frequently unsuccessful. Whether it is right or wrong for one in his position to use his official influence to procure removals is not for us to say. We only state and find that he exercised the right or privilege taken by, if not conceded to, others; an act which, if regarded as tending to "impeach his official character and conduct," would be equally so, probably, of every member of this body.

Turning now from these matters arising subsequent to the election of Senator Clayton, we come to the case made touching his election, and here a preliminary inquiry arises: What have we to do with that election? Recurring to the resolution raising the committee, and which must be accepted as the charter of our power, we remark again that the report of Mr. Scott says that the testimony (and to which we must go to ascertain the charges, for there is nothing else) "tends to impeach his official conduct and character." Then, the resolution under which we are acting directs us to investigate the charges therein contained against Senator Clayton as a member of this body. Now, giving to the record a fair and just construction, have we anything to do with his election, or the circumstances connected therewith? Upon this subject at least one member of the committee entertains the gravest doubts. The argument suggesting and supporting these doubts is as follows:

In respect to the subject-matter referred to a committee, the rule is

that they are not at liberty to entertain any proposition or go into any inquiry which does not come within the direct purpose for which the committee was appointed, as expressly or clearly implied in the authority conferred upon it, or which is not grounded upon some paper which is referred to the consideration of the committee. (Cushing's L. and P. of Leg. Pro., ss. 1906.) This is upon the clear principle that a committee being a creature of the body giving it life, is bound by, and is not at liberty to depart from, the order of reference. If any other rule were adopted, and it could depart from the order of reference, all business would, of course, be at an end, and endless confusion and contests between the body and the committee would ensue, (ss. 1907.)

Now, it is suggested that, inasmuch as the report of the "joint select committee," by Mr. Scott, referred alone to testimony tending to impeach the official character and conduct of Senator Clayton, the order of reference took in and contemplated such matters alone, and that the resolution raising this committee must be construed in the light of that report, and the subject-matter of inquiry be thus limited; and hence, when it is directed that the committee shall investigate the charges contained in said report, (including the testimony of Wheeler and Whipple,) it was intended to cover and include only those bearing upon such official conduct and character; for in that report there is nothing said about fraud or illegality in his election. But here it is, perhaps, answered that the proposed inquiry is grounded upon the paper (the testimony aforesaid) referred for our consideration. To this the reply is, true, but that paper must properly be construed as referring to such charges only as relate to or are connected with the principal inquiry; that is, official conduct or character. If not, why did the committee omit all reference to his election and the circumstances attending the same? The answer is, they had power and authority themselves to inquire into all matters bearing upon the state of affairs in the State, including frauds in elections, but not to such as bore upon the conduct of a member of the Senate or House after his election.

Conceding, however, that this view limits the inquiry unjustly, let us look at the charges themselves. And here the already great length of this report admonishes us to brevity, and especially so as, when the testimony shall be finally summed up, it will necessarily demand a large portion of our attention. This part of the case suggests two inquiries: First. As to matters occurring antecedent to the assembling of the general assembly which elected Senator Clayton. Second. Those immediately leading to and connected therewith.

Upon the first we are not disposed to enter. Our warrant for this is found in the principle obtaining and the nature of the testimony, or rather the absence of it. It seems to us that upon principle we cannot enter upon the numberless inquiries which would always be suggested in cases of this character preceding the election of the members whose duty it is to elect a Senator, unless such conduct and transactions clearly relate to and bear immediately upon the alleged frauds connected with such Senator's election. Not only so, but it would seem that they must so color the transaction of the final election of the Senator as to lead to the conclusion that but for them the result would have been different. Thus, suppose Senator Clayton used reprehensible means with the hope of securing the election of some member or members in one or more districts, and such persons were either not elected or failed to vote for him, or, if voting for him, he had a clear majority outside of those improperly elected, would any one say or claim that his seat could be declared vacant? Or suppose, as in the case before us, that the two

houses of the Arkansas legislature, being the judges of the election, qualification, and return of their own members, have heard and investigated all alleged frauds and given the members their seats, can this committee or the Senate go back of that action, and in this inquiry, whether treating it as a proceeding direct or collateral, say that such members were improperly elected, returned by the use of corrupt means, even if originating with Senator Clayton himself, and that therefore he was not legally elected? The statement of such propositions furnishes its own answer. Neither legally nor logically could it be claimed that this committee would be called upon to go into a field so boundless, and which, when explored, would throw no legitimate light upon the controversy before us. And, therefore, we now incline to the opinion that all the testimony bearing upon the transactions before the assembling of the legislature, except as it is connected with and gives color to the election of Senator, except as it tends to show that it was brought about by fraudulent and corrupt means then used, may be dismissed. A large portion of the testimony is of this character. As we read the record, Senator Clayton received a clear majority in each branch of the general assembly, outside of those claimed to be thus fraudulently elected, and some of those whose elections are thus assailed voted against him, and this alone is all that need be stated upon this subject. The efforts in this direction have been most extraordinary—the statements of numberless persons having been introduced upon the theory that, as they were friends of Senator Clayton, friendly to his election and exerting themselves in his behalf—so there was a so-called conspiracy, and what all and each of said conspirators said would bind all. To admit that a conspiracy has been shown in any legal sense would be to set at defiance all the rules of law governing in such cases, and make every candidate, in a bitter and protracted contest of this character, responsible for all that was said and done by all his friends, the foolish and the discreet, the good and the bad, the honest and the dishonest, alike. While we would do nothing to encourage fraud or to shield from responsibility any one seeking official position, and especially a position so high as a seat in this body, we would not enter a field of mere speculation and adopt a rule which is the most doubtful in theory and finds no support in practice or precedent.

It only remains to inquire into the alleged frauds connected with the election. And here the principal, if not only one, is that Senator (then Governor) Clayton issued to Hon. John Edwards a certificate of election to the House of Representatives of the present Congress, upon a corrupt bargain or agreement that he was to receive in return for the same the support of the democratic members of the general assembly. If this charge is not maintained, we hazard but very little in saying that there is nothing left of this case. And a very brief statement will show how utterly groundless it is in fact.

With the question whether Edwards was or was not in fact elected we have nothing to do. He was accepted and recognized as the democratic candidate for Congress, his competitor being Hon. Thomas Boles. Governor Clayton supported Boles in that election by his voice and influence. At one time there were two republican candidates in the district for Congress, (Judge Boles and Judge Searles.) Through the influence of Governor Clayton and his friends, Judge Searles was induced to withdraw, leaving the field to Judge Boles, and this, too, notwithstanding Judge Searles was recognized as the more pronounced friend of the governor. That the object was to promote harmony and secure ultimate political success seems to be fairly well established.

In Pulaski County especially the republican party was divided, one side being the warm and devoted friends of Governor Clayton, the other his bitter enemies. To some extent this state of things obtained in other parts of the State. At the election in this county in 1870, and particularly in the city of Little Rock, it was alleged that certain frauds intervened whereby illegal votes were cast for Boles, or if the votes were not illegal they were received and counted by judges selected without authority of law, and that their action was both illegal and irregular. Into all these matters we do not propose to enter, as our purpose in this connection is to state some facts generally, and then leave this part of the case.

By the statute of Arkansas it is the duty of the secretary of state, in the presence of the governor, within thirty days after the time allowed for making the returns of the election, if the returns are all received, to cast up and arrange the votes from the several counties for member of Congress; and of the governor, immediately thereafter, to issue his proclamation declaring the person having the highest number of votes to be duly elected, and he is also required to grant a certificate under the seal of the State to the person so elected.

From the returns made to the office of the secretary of state there was no question as to the result. Boles was clearly elected. The duty of the governor under the law is ministerial, not judicial. By strict law he has no power to reject votes, nor to direct the counting of those returned by other than the proper officers. In this case, however, it was brought to his attention that frauds had been perpetrated, or, at least, irregularities had intervened, which should be examined into. In our opinion, under the law he had no power to enter upon such an inquiry; nor do we understand that he did.

A case was pending in the supreme court of the State involving the legality of the returns made from certain wards in the city of Little Rock and some precincts in the county, the determination of which was regarded important in settling whether Boles or Edwards was elected to Congress. The governor determined to wait, and did wait, that decision. The same question was brought to the attention of the legislature and referred to a committee, and he declared his purpose to await that action. In the wards referred to two polls were opened, one by judges selected by the by-standers, the other by the judges regularly appointed or chosen. At the first the votes were almost unanimously for Boles, at the other very largely for Edwards. Counting the first and excluding the second. Boles was undoubtedly elected; if the latter were counted and the first excluded, and excluding votes for Boles in in some other places, which it was claimed were fraudulent, then it was insisted that Edwards was elected.

By the decision of the supreme court and the report of the committee in the legislature, the elections held by the regular judges were determined to be the only legal ones, and following these decisions in part, the governor gave the certificate to Edwards. In this he may have been mistaken. But it would certainly be most extraordinary to say that the executive of a State may not follow the decision of its highest judicial tribunal—that he may not act upon the proceedings of the legislative branch.

As to the returns and the election, there was intense excitement. Factions were arrayed against each other, and each charging frauds without stint upon the other. If Governor Clayton mistook his duty, it was, at least, quite as much on the side of law and order as to have acted without investigation and in disregard of the action of the other

co-ordinate departments of the State government. If it is said—and this is the effort, from the testimony—that the judges and legislature were actuated by base, unworthy, and corrupt motives; that they were all moved by him and in his interest, we can only answer that a charge so serious is neither probable nor reasonable. It would certainly require the very strongest proof to justify us in believing a charge so sweeping, affecting, as it would, almost the legality and validity of the entire acts of its officers, legislative, executive, and judicial.

But this is not all. General Edwards was given the certificate on the 20th of February, 1871. Governor Clayton was not elected until the 15th of March. True, he was elected at what is known as his first election, on the 11th of January, 1871. But this election he declined. He holds his place now under the second election. At this but one democrat (and he of doubtful political *status*) in the house voted for him, and he swears most positively that his vote was not influenced by the Edwards matter in the least. In the senate, if any voted for him, he had, without counting them, a clear majority of all, and as to those voting for him, if any, there is no evidence that they cared anything more for Edwards than Boles.

It appears, then—

First. That Clayton was the political friend of Boles and favored his election.

Second. That in issuing the certificate he discharged what seemed to be, and what he had good reason to believe to be, his duty, in following the decision of the supreme court and the action of the legislature.

Third. Nothing approximating a corrupt motive in exercising the power to inquire into the legality of the returns is shown.

Fourth. He gave Edwards the certificate before he was elected the second time, and after he had announced, at least, a contingent purpose of remaining in the office of governor.

Fifth. There was no necessity for a bargain with the democrats in the legislature, for they were but too willing; being in the minority and without hope of being able to elect one of their own political friends, in view of what they considered to be their wrongs and the wrongs of their friends at the hands of the governor, we say they were but too willing to have him elected to the Senate and thus secure his resignation as governor, trusting and believing that a change could not possibly be worse for them.

Sixth. He did not receive any votes under any such agreement, and, least of all, any number sufficient to influence the result. And hence we conclude that nothing can be plainer or more manifest than that this charge is totally and entirely unsustained.

Something is said in the testimony of Whipple about railroad subsidies and bonds, and the action of Governor Clayton in that connection. This relates rather to his action as governor, with which we have nothing to do, than to the senatorial election. So it is attempted to show or start the theory that he procured the resignation of White as secretary of state, and appointed Johnson, the lieutenant-governor, to the place made vacant by White, also the election of Hadley as president of the senate—all in pursuance of a corrupt arrangement by which he was to be elected to the Senate. It must be admitted that the stroke was a bold and most successful one. Governor Clayton had said to his friends from the stump and elsewhere that, while he was a candidate for the Senate and was desirous of success, he would never take an election and leave the State administration in the hands of Lieutenant-Governor Johnson. He was elected Senator in January, and an effort was then

being made in the courts to remove the lieutenant-governor. This was unsuccessful, and Governor Clayton declined the office of Senator. At the first election several of the democratic members voted for him for reasons already stated. At this time and for weeks all parties were excited; the members were leaving the legislature to break a quorum; crimination and recrimination were the order of the day, and each party was struggling for supremacy. Everything was in disorder and confusion. The result no man could tell. At times they were apparently on the eve of an outbreak, if not of revolution. Then it was that White resigned his office of secretary of state. He was the friend of Governor Clayton, but apparently not more than of the other side—wanted to and was willing to serve him. Johnson was willing to take that place and vacate that of lieutenant-governor, and he was accordingly appointed. Hadley was elected presiding officer of the senate; Clayton was made Senator and Hadley became governor.

If in all these changes there was nothing corrupt upon the part of Governor Clayton, then they are as harmless, so far as this investigation is concerned, as if they had occurred years before, or in another State, and without his suggestion or knowledge. The only testimony which tends to show anything of the kind is that of White, who swears that months afterward he received some money through Senator Clayton, but he explains what it was for, and states positively that it was not in consideration of his vacating the office of secretary of state.

But without more, we here leave the case. In our opinion the charges, if such they can be called, are not sustained. The testimony fails to impeach the Senator's official conduct or character. All which we shall take occasion to show by a fuller reference to the testimony and record, when other duties will permit, and it may be the pleasure of the Senate to receive the same.

Respectfully submitted.

GEO. G. WRIGHT.

I concur in the foregoing, as touching the testimony which "tends to impeach the official character and conduct of a member of the United States Senate," reserving a recurrence to the mass of testimony when opportunity offers for a full report.

LOT M. MORRILL.

VIEWS OF THE MINORITY.

JUNE 10, 1872.—Ordered to be printed, to accompany the report of the committee to inquire into certain allegations against Hon. Powell Clayton.

Mr. NORWOOD submitted the following as the views of the minority:

Protest against the report of the majority of the committee appointed to investigate the charges against Hon. Powell Clayton.

As a member of the special committee of three, appointed by the Senate to investigate certain charges made against Hon. Powell Clayton, United States Senator, and to report the result of such investigation to the Senate, I most respectfully protest against the action of the

majority of that committee in submitting their report at this time; and in justification of my course and in support of this protest, I beg herewith to submit the following facts and considerations:

This investigation, as stated in the report of said majority, commenced on the 18th day of January last, and continued almost daily (Sundays excepted) until the 14th day of May. Thirty-eight witnesses were examined, and their testimony averages, each, about one hundred and twenty five manuscript foolscap pages. During the examination but two of the committee were, generally, present. Sometimes all were present, and often, by consent of Senator Clayton and James L. Hodges, who occupied the positions before the committee of prosecutor and defendant, but one of the committee was in attendance, the three alternating, so that no one member of the committee was present during the whole of the investigation. Hence no one member of the committee heard the whole testimony. Duty compelled our attendance in the Senate-chamber, and at no time did we sit while the Senate was in session. And as we sat generally from 10 a. m. to the opening of the session, many other duties made it necessary for one and another of the committee to be absent.

A few days after the majority of the committee determined to close the investigation, the chairman convened the committee to determine what course should then be taken. The resolution fixing the day of adjournment on the 29th of May was then in force, and we supposed Congress would adjourn on that day. In view of the immense volume of the evidence, which no one member of the committee had read through, in consideration of the brief time to elapse before the day then set for adjournment, and also of the determination of the committee to revise the record before having it printed, for the purpose of expunging such as might be irrelevant, and much that was conversational between the counsel and the committee during the examination of witnesses, and thus to reduce the volume to a condensed and readable form, the committee at that time divided the manuscript into three parts, and each member took a third, for the purpose of revising it and noting such portions as he considered might be expunged without detriment to the record. We discussed the probability of being able to make a report at the present session, and in view of this preliminary labor of expurgation, the shortness of the time allowed, as the day for adjournment was then set, and of our engagements in the Senate, then convening at 11 a. m. and holding night sessions, we saw no prospect of completing our labor so as to report before the next session of Congress. It was further agreed that we should, after examining the evidence and noting the irrelevant matter, come together at a time left indefinite, and consider well whatever each had marked as, in his judgment, unnecessary to the record, and the remainder would then be printed. We would then examine and weigh the relevant testimony, and make a report to the Senate.

Thus the matter remained until about a week ago, when the chairman assembled the committee, and suggested that a report be made. In consideration of all that had occurred, as stated above, and of the fact that the committee had taken no action on the testimony preparatory to making a fair, full, and final report, I moved that the testimony be printed, and that the original purpose of the committee be carried out, and that a report should be made at the next session of Congress. This suggestion was not adopted, and, on the third day of June instant, the chairman submitted to the committee for its action the document now presented to the Senate as the report of the majority.

The majority admit that a careful examination of the testimony has not been made; that they submit "a conclusion reached from their recollection of the evidence at the time it was submitted, and their subsequent examination;" that the report is only "partial;" that they intend to make "a further and final report;" that they withhold the testimony, and recommend that the Senate take no action on their report until it can "act with greater safety and intelligence."

I do not intend to enter on a consideration of the merits of this case. I regard the action of the majority of the committee as premature (as they admit) and unprecedented. What power has a special committee to make a report by halves? Besides, what necessity exists for a report at this time? It is true the majority say that justice to the Senator accused requires it. But why and how? What injury can follow by waiting until our labor could be completed? Confessedly it is incomplete. Confessedly the evidence must be thoroughly examined and another report must be made.

The report submitted refers to but a small portion of the material evidence taken by the committee, and while I will not express an opinion as to the effect of the testimony until I shall have given it that careful and serious consideration which the gravity of the charge and the dignity of the Senate require and demand, I will say that I think the conclusion of the majority very hastily drawn.

Referring to the testimony of Wheeler and Whipple, they extract the following, as constituting the charges (if such they can be called) upon which this investigation was instituted.

CERTIFICATE TO EDWARDS.

Extract from the testimony of Edward Wheeler.

Examined by Mr. BLAIR:

Q. What was the reason assigned for Clayton acting as he did?—A. It was generally regarded that he expected, by supporting Edwards, to gain some democratic votes in the legislature for United States Senator.

Q. That it was for his own interest, and to secure his own election as Senator?—A. It was so understood; yes, sir.

Q. That is the explanation of it?—A. That is, the object of the frauds in Hot Springs County was to put Clayton men in the legislature; the object of the frauds in Pulaski County was to put democrats in the legislature, for the Clayton faction had a very small vote in that county, and the democrats were given seats in the legislature. It was claimed, and it has been sworn to by some prominent democrats, that General Edwards was given the certificate upon a trade made by Senator Clayton, that certain parties would not contest certain seats in the legislature. That was the testimony developed in the investigation made in the Boles and Edwards contested-election case.

Extract from the testimony of William G. Whipple.

Examined by Mr. BLAIR:

Q. What was the motive of the governor in giving this certificate to a man who was not elected?—A. Of course it is very hard to tell what his motive was. It is generally understood that it was done in pursuance of a trade.

Q. Of a trade?—A. Yes, sir; that is the general understanding.

Q. What was the trade?—A. That the democratic members of the legislature should support him for the Senate of the United States.

Q. Did they do it?—A. Yes, sir; they did.

Q. And the governor carried out his part of the bargain?—A. Yes, sir; it seems very plain that he did that.

Examined by the CHAIRMAN, (Mr. Scott:)

Q. There was a majority of republicans in the legislature that elected Governor Clayton to the United States Senate?—A. Yes, sir.

Q. And when these two divisions came into conflict in regard to electing a United States Senator, you say the Clayton men entered into a corrupt combination with the democrats, by which the democrats agreed to vote for Governor Clayton for the Senate

of the United States, in consideration of Governor Clayton giving a certificate of election to the democratic candidate for Congress in the third congressional district of the State?—A. That is believed by many persons.

Q. You have already stated that here as the general belief in the State?—A. Yes, sir.

Q. Is that your belief?—A. Well, it is my belief that Clayton made some trade with the democrats. Precisely what were the terms of the trade I would not undertake to say.

Q. You have already put it in that form in your testimony. I want to understand if that is your belief?—A. I do not think I put it in exactly that form.

Q. You stated that to be the general belief.—A. I think it is the general belief.

Q. Do you include yourself among those who entertain that belief?—A. Well, I have reason to believe it, and I know of no reason why it is not true.

ELECTION TO THE SENATE.

Extract from the testimony of William G. Whipple.

Examined by Mr. BLAIR:

Q. What condition of affairs in Pulaski County was disclosed by the investigation, so far as it went?—A. There were shown many instances of fraudulent registration; parties who were not voters were awarded certificates by the registrars; there were many cases of parties registered in the wrong ward of the city or the wrong precinct in the county. For instance, parties would present themselves in the Second ward to be registered, and would be registered in Big Rock Township. There were many instances of that kind, where parties were registered in the wrong places.

Q. In whose interest were these frauds perpetrated?—A. In the interest of what was known as the Clayton party.

Q. For the purpose of electing men who would support him for Senator of the United States?—A. Yes, sir; and in many cases to defeat the republican candidates.

Q. Who would not vote for him as Senator?—A. Who would not pledge themselves to support him for the United States Senate. That was the case in Pulaski County, where the Clayton vote was understood to have been thrown to secure the election of democratic candidates for the legislature as against the republican candidates, because the former were expected to support Clayton and the latter were not.

Q. Did they support him?—A. They did support him; yes, sir; they voted for him for United States Senator.

Q. As I understand, Governor Clayton was elected Senator, and declined to accept?—A. Yes, sir.

Q. What was his reason for declining to accept when first elected?—A. What reason did he assign?

Q. Yes.—A. The reason that he assigned was that the interests of the republican party in Arkansas required that he should remain governor. But that was not the general understanding at all.

Q. What was the general understanding on the subject?—A. The general understanding was, that he declined the election to the United States Senate because, if he went to the Senate at that time, he could not leave the government of the State in the hands of his friends.

Q. Who would have been governor if he had not declined to go to the Senate at that time?—A. The lieutenant-governor, James M. Johnson.

Q. Was he a friend of Clayton?—A. He was not a friend of Clayton at that time; he was a republican.

Q. How did Clayton subsequently arrange that, when elected the second time?—A. On the eve of the second election, I think the day before, Lieutenant-Governor Johnson resigned his office as lieuteannt-governor, and was appointed secretary of state by Governor Clayton, Secretary White, the previous secretary, having resigned. Thereupon, Senator Hadley was elected president *pro tempore* of the senate, and became acting governor of the State upon the election of Governor Clayton to the United States Senate.

Q. He is understood to be a friend of Clayton?—A. Governor Hadley?

Q. Yes.—A. Yes, sir; he is understood to be a Clayton man, out and out.

INDICTMENT.

Extract from the testimony of Edward Wheeler.

By Mr. BLAIR:

Question. Were you a member of the grand jury of the United States court last spring?—Answer. Yes, sir; and its foreman.

Q. When was the session of that court held?—A. It commenced on the 10th of April last.

Q. Were any indictments found by that grand jury under the act of Congress known as the "enforcement act?"—A. Yes, sir; there were several found.

Q. Against whom? Who were indicted?—A. There were six or seven different parties indicted in Hot Springs County; judges, and clerks of elections, and registrars; also some six or seven in Clark County for frauds in elections; and Governor Clayton of Pulaski County, was indicted.

Q. What was the offense for which Governor Clayton was indicted, and what was the evidence upon which he was indicted?—A. The evidence was entirely documentary, being the returns in the office of the secretary of state. The witnesses were the ex-secretary of state, and the deputy secretary of state. They brought the returns, or a tabular statement of them sworn to, and laid it before the grand jury.

Q. Those returns were of what election, and in what counties?—A. In the election for members of the Forty-second Congress, and in the counties composing the third congressional district of the State of Arkansas. I do not now remember all of the counties by name. It is the district in which the county of Pulaski is embraced; our county is one of the counties of the third congressional district.

Q. What was the action of Governor Clayton that led to his indictment?—A. The first that I, or any member of the grand jury, knew of the matter was the bringing of the case to our attention by the district attorney; he came to me with a list of witnesses, three in number, which he wished to have subpœnaed. He said the case had been called to his notice, and he wanted it brought before the grand jury for examination. I subpœnaed the three witnesses: the ex-secretary of state, the deputy secretary of state, and General Edwards, the person to whom the certificate of election for Congress had been given by Governor Clayton. It was claimed that Governor Clayton had violated certain sections of the enforcement act in giving the certificate of election to General Edwards, when the returns, as exhibited to us by the secretary of state, showed that Judge Boles had been elected. General Edwards presented a copy of his certificate of election, and of the proclamation of the governor, stating that according to the returns on file in the office of the secretary of state, General Edwards had been elected. But the returns, as exhibited to us, showed that Judge Boles was elected by some 130 votes, I think it was, on the full vote, counting the votes at both polls. There were allegations of fraud on both sides. But giving the governor the benefit of every doubt, the least majority for Judge Boles, that we could figure out, was some 800 or 900; I forget the exact figures. That was according to the returns shown to us; and upon that showing the indictment was found.

Q. Under what part of the act was the indictment found?—A. I think it was the twenty-second section of the enforcement act. And our State laws require the canvass of the returns to be made by the governor, assisted by the secretary of state; the governor is made the canvassing officer. The law was explained to us by the district attorney, and it was claimed that the governor had violated the twenty-second section, I think it was, of the enforcement act; the one providing that if any officer shall issue a fraudulent certificate of election to any party, he shall be amenable, &c.

Again:

Q. And the grand jury found that that was a fraudulent certificate?—A. They found that this proclamation of the governor, issuing the certificate of election to Edwards, was not in accordance with the returns in the office of the secretary of state as laid before us.

By the Chairman:

Q. What was the specific offense with which the governor was charged?—A. I think the district attorney, who is in this city, has a copy of the indictment, and he can probably explain these matters much better than I can.

Again:

Q. The other case of indictment you have referred to is one against Governor Clayton, for giving the certificate you have read?—A. For furnishing a certificate of election to John Edwards.

Q. The State law, you say, makes the governor the canvasser of the returns?—A. It makes it the duty of the governor, within thirty days after the election, to make a canvass of the votes, make proclamation, and issue certificates of election.

Q. In the discharge of that duty is the secretary of state associated with him in any capacity which would invest him with authority to decide; or does the governor merely consult him?—A. His duty is merely clerical; the governor is the canvassing officer proper. I think the law states that the canvass shall be made by the secretary of state in the presence of the governor, and the governor shall, by proclamation, announce the result.

Q. It makes it the duty of the governor to award the certificate to the persons whom he judges to be elected?—A. Yes, sir.

Q. The responsibility of the decision is upon the governor?—A. Entirely.

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Q. And it was because, upon the evidence presented, you believed that the governor had decided wrongfully—— A. Yes, sir, according to the returns laid before us.

Q. You found a true bill against him?—A. Yes, sir.

Q. And that case is now pending for trial in the United States court?—A. Yes, sir.

Again:

Q. You heard, of course, nothing but the evidence on the part of the Government; there was no defense?—A. Of course there was no defense.

Examined by Mr. POOL:

Q. You sought for no facts as explanatory of the governor's action?—A. No, sir; we knew of nothing; we could get at nothing but the returns.

Q. Was any witness sworn before the grand jury other than the secretary of state, the—— A. The ex-secretary of state. The present secretary of state was not then in the city. He had but recently entered upon the duties of his office, and his chief clerk was made deputy secretary of state, and he was before us in regard to the records.

Q. In relation to the authenticity and correctness of the report?—A. Yes, sir. And General Edwards was before us as to the correctness of a copy of the certificate which had been furnished us.

Q. And you examined no witnesses outside?—A. No, sir.

These witnesses testified more at length before the "joint select committee," &c.; but the foregoing, it is believed, contains all that is necessary to show the precise charges made. They may be considered under three heads, to wit, certificate to Edwards, election to the Senate, and corrupt bargain.

Without discussing what would be the effect if any or all these charges were sustained, or the propriety or power of this body to consider the same, interesting and important though such a question might be in a proper case, we proceed at once to state our views of the case, as submitted to us, without reaching the inquiry indicated.

Disregarding, then, chronological order, we shall consider *first* the matter of the indictment.

It appears that Senator Clayton was indicted for the violation of the twenty-second section of the enforcement act, in fraudulently giving the certificate of election to General Edwards, when, as is claimed, it should have been given to his competitor, Judge Boles. He was governor, and as such did give the certificate of election to General Edwards. The language of said section, so far as here material, is, that "*any officer of any election*, at which any Representative or Delegate in the Congress of the United States shall be voted for * * * * who shall * * * *fraudulently make any false certificate* of the result of such election, in regard to such Representative or Delegate, * * * shall be deemed guilty of a crime," &c. By the law of Arkansas it is provided that the secretary of state shall, in the presence of the governor, or, &c., cast up and arrange the votes of the several counties for persons voted for as members of Congress, and that the governor shall immediately thereafter issue his proclamation declaring the person having the highest number of votes to be duly elected, and that he shall grant him a certificate thereof under the seal of the State.

It seems that the secretary of state did thus cast up and arrange the votes in the election between Boles and Edwards. It also appears that by the showing thus made Boles, and not Edwards, had a majority of the votes, and was hence apparently entitled to the certificate.

This canvass of the votes took place within thirty days after the election, (the election being on the 8th of November, 1870,) and yet proclamation was not made nor was the certificate issued until in February, 1871.

Immediately after the election divers affidavits and some documentary evidence were presented to the governor, tending to show that in one

of the counties (Pulaski) of said congressional district, frauds had intervened, which, being considered, would exclude a large number of votes cast for said Boles, and thus elect Edwards. About the same time proceedings were instituted in the supreme court involving the validity of said election, and the votes thus claimed to be fraudulent or irregular, and they were afterward, by the judgment of said court, determined to be fraudulent and illegal. To state the claim more particularly, it was maintained in said affidavit and evidence, as also in said proceedings in court, that the polls in some of the wards of the city of Little Rock, (Pulaski County,) and some precincts in this county, were taken possession of by force, violence, and contrary to law, judges of election installed without right, and other illegalities and irregularities practiced, and notwithstanding the proper and legal judges also held an election at the appointed places, the votes received at the illegal polls, and by the judges illegally chosen, were the votes received and canvassed. When the legislature met, the same questions were there made as to the members of the house and senate voted for in said localities at the same time, and claiming seats under such alleged illegal election, and it was determined adverse to their claims. After all this the governor issued the certificate to Edwards.

It is claimed by those prosecuting the charges here that, even excluding the so-called illegal returns, Boles was still elected. This we are not prepared to concede, for it seems very clear that there is one method of canvassing the returns, and not at all without warrant in the figures, if certain facts are admitted, which would elect Edwards.

This will be seen in the following statement:

By the returns from all the counties, as canvassed by the secretary of state, it appears that Boles received 10,344 votes; Edwards received 8,211 votes. The governor excluded from the count the votes cast in the *First* and *Third* wards in the city of Little Rock, and in certain precincts or townships in the county of Pulaski, in all of which the election had been declared illegal by the legislature, of which excluded votes there had been cast for Boles 2,385, which, being deducted from the above number, counted for Boles, left him 7,959, and of which excluded votes there had been cast for Edwards 202, which, being deducted from the above number counted for him, left him 8,009; thus showing a majority for Edwards of 50 votes.

But conceding that Boles was actually elected and hence entitled to the certificate, it would by no means follow that this indictment was well founded, nor that Senator Clayton was consciously and willfully violating his duty or conniving at a violation of the law.

We concede that, in strict law, the functions of the governor, in relation to the proclamation of the result and granting the certificate, were ministerial and not judicial. His duty was simply to declare the result and deliver the certificate of his election to the party appearing to have a majority by the canvass thus made. He had no power strictly to go behind the canvass and inquire into the alleged frauds; for the returns were to all appearance legal and formal, and the evidence *aliunde* was for Congress, if the question was raised of their illegality, and not for the executive. But it by no means follows that he was guilty of the *fraudulent act* forbidden by the enforcement act, if he did go behind the returns.

In the first place he was not amenable under the statute for this act, because, in our opinion, he was not an "officer of any election" within the meaning of the statute. This was expressly so held by the circuit court of the United States for the district of Arkansas, his honor Judge

Dillon presiding—a jurist of the clearest head, the most incorruptible integrity, and the finest legal attainments—when the question came before him in the indictments, and of its correctness we think there can be no reasonable doubt.

But if such officer, the governor might well in the utmost good faith, though without strict legal warrant, esteem it to be his duty to go behind such returns, if it was brought to his attention that fraud had intervened. A mere mistake as to his powers and duties—the exercise of judicial instead of ministerial powers, in that connection—would by no means establish the required fraudulent intent. And when we remember the circumstances that such frauds were brought to his attention; that he supported Boles and not Edwards in that election; that he exerted himself to procure the declination of a third candidate (Judge Searles) who claimed to be a regular republican candidate, and whose candidacy endangered the election of Boles and rendered more probable that of Edwards; that Boles was recognized as the candidate of the party with which the governor has continually acted, and that Edwards was the candidate of the opposition; that at least some evidence was furnished to him of the alleged frauds; that the highest judicial tribunal of the State had declared against the validity of such returns; that the legislature had reached the same conclusion—we say, when all these things are remembered, we should be compelled to overturn all rules of evidence to say that, while he acted without warrant of law, he also acted fraudulently. A party may mistake the plainest legal duty, and yet have no criminal intent. And so we find in this case that the governor, if an officer of election, did not act fraudulently, hence was not guilty of the offense charged, and that thus far there is nothing to "impeach his official character or conduct as a member of this body."

Second.

Alleged frauds leading to and connected with his election as Senator.

We inquire, in the second place, into the charge of fraud leading to and connected with his election as Senator.

By reference to the testimony of Whipple (set out above) it will be seen that this is based upon alleged fraudulent registration, and some supposed bargain or arrangement by which Johnson resigned his office as lieutenant-governor, taking the place of White, who resigned as secretary of state, Hadley becoming governor and Clayton Senator. Than this, few things could be more vaguely stated, so far as the testimony of Whipple discloses, and yet this is all, it is believed, to be found therein approximating a charge in this connection. We have sought not to put too narrow a construction upon the language used, nor have we been in the least inclined to limit the investigation within limits even so narrow as the charges here contained under the most liberal construction. And hence, upon the theory of the prosecution, that Senator Clayton, with many others, his friends, had conspired, by the use of unlawful and corrupt means, to secure his election to the Senate, much testimony was received as to appointments to office, figuring in and preceding the conventions which nominated candidates for the legislature, the issuing of State bonds to railroad companies, certain influences which it was claimed were brought to bear on members of the legislature looking to his election, and other like matters, though nothing of the kind was charged or pretended in the testimony referred to us.

Of course a most material preliminary inquiry would be to what ex-

tent a party thus charged is to be affected by the acts, conduct, admissions, pledges, or promises of his friends, and hence the theory was that there was a conspiracy for the purpose indicated, and that what was said or done by one, in furtherance of the common purpose, was said or done by all, and that upon such hypothesis Governor Clayton was bound by all that was said or done by those engaged in the common design.

As stated in the "partial report," much of the testimony was received upon this theory of the prosecution—it being conceded that if the so-called conspiracy was not established, it was in every respect incompetent. Since making that report we have carefully examined the testimony, and feel bound to hold that it falls far short of establishing the alleged combination, and hence that a large portion of the testimony should be excluded. We therefore report only such as we believe to be competent in this view of its scope and effect.

We shall be pardoned for stating the familiar proposition, that to constitute a conspiracy there must be a combination of two or more, by concerted action, to accomplish a criminal or unlawful purpose, or to accomplish a purpose not in itself criminal or unlawful, by unlawful or criminal means. The conspiracy is the gist of the offense, and it is not necessary that any act should be done in pursuance of such unlawful agreement. To make the acts or declarations of another evidence against the party charged, the common design must first be established, and it will not do to connect the party charged, or bring him into the alleged conspiracy, by the admissions of others, without his knowledge, or without at least some recognition by him of their right to speak for or bind him.

In this case the purpose to be accomplished was neither criminal nor unlawful. The parties confederated, if at all, to accomplish a proper purpose by the use of unlawful or criminal means. And the whole of the case is, to put it in its strongest light against Senator Clayton, that he is to be bound by all that was said and done by his friends, and simply because they were such, whether at the State capital or elsewhere, in their efforts to secure his election. We do not stop to determine whether these acts were or were not illegal, whether they can or cannot in all respects be defended; we only hold that there is no particle of testimony warranting the conclusion that he ever combined with them to use unlawful or criminal means. And if he is to be held responsible for every indiscreet remark made by over-zealous friends, by every inducement, just or otherwise, held out by them to members of the legislature, for every appliance made use of by political and personal friends in the election of the members thereto, for the alleged combinations made in connection with proposed legislation, for all the alleged frauds in connection with registration in some parts of the State, near and remote alike, we say, if this be the rule, few men would want friends in such a contest, or would be safe, however honest and upright their own conduct.

Many things were said and done by friends of Senator Clayton which we might not approve. Nor would we for a moment recognize any rule which would not exact or require the highest integrity and most honorable conduct in contests of this character. On the contrary, we would condemn, without reserve, every step, every word, every movement, which would seem to tend to the least fraud or corruption in an election so important. And yet, in view of the duty assigned us, we have nothing to do with mere matters of personal propriety, nor are we to determine whether all the plans, plots, and counter-plots of these opposing

factions were in all respects to be justified by a code of ethics ever so desirable, and yet perhaps too seldom practiced. We have to do with the practical question, whether Senator Clayton was himself a party to such fraud and corruption as invalidate his election or impeach his official character.

In the whole mass of testimony there is but little to connect him with the various schemes, which it is alleged were corrupt in their inception and consummation, touching his election. Witnesses, it is true, did testify as to what others said, but that they spoke with the knowledge or concurrence of the party charged, is left entirely without proof in many instances, and when the proof is supplied, it relates to matters so entirely immaterial or foreign that it is scarcely worthy a moment's attention. One witness (McConnell) undertakes, we know, to bring all the matters detailed by him, or many of them, home to the Senator. But we feel bound to say that, in many respects, his story is improbable, and he stands before us in such an attitude that we are constrained to discredit much that he says. While before us he was almost a wreck from long-continued dissipation, and we were compelled to put him under treatment for several days before his testimony could be completed. Add to this that several witnesses, having the means of knowledge, testify unhesitatingly that his reputation for truth and veracity is bad, and it seems to us that no tribunal would be justified in condemning any one upon the mere recollection of such a witness, months after the transactions occurred.

That which approximates nearest any improper action on the part of Senator Clayton, in this connection, relates to the steps taken to induce White to resign the office of secretary of state. It will be seen that Clayton was governor and Johnson lieutenant-governor. When the former was first elected to the senate, Johnson was still lieutenant-governor, and would, if the governor accepted the senatorial position, succeed to the gubernatorial office. Clayton had pledged his friends, both before and after the meeting of the legislature, that he would not accept the position of Senator if Johnson was to be left as governor. At the time proceedings were pending in the supreme court of the State to oust Johnson, but the proceedings failed, and thereupon Clayton declined the senatorship. He still desired to be Senator, and yet determined to maintain his pledge to his friends. After much consultation among his friends and others, an arrangement was effected by which White resigned. Johnson was appointed by Clayton in his place as secretary of state, and then Hadley was made presiding officer of the senate, and, upon Clayton's election again to the Senate, which followed soon after the above resignations and appointments, he became governor. Months afterward White received, as we find, through Senator Clayton, $5,000 in money and $25,000 in railroad bonds.

In the resignations and appointment themselves there was nothing wrong. There is no testimony that Clayton made use of improper means to bring them about. White, who is the only witness who seems to know much about it, says that he was a friend of Governor Clayton—was anxious for the harmony of the party—had frequently expressed his readiness to do anything to bring about quiet and peace; that he had for months, because of the condition of his family, expressed his intention to resign; that he had some business relations with the opposing faction, which was in such a situation that he knew he must suffer, if by his resignation, Johnson could be got of the way; that he did thus suffer, and that this $5,000 was paid to indemnify him for this loss. He expressly denies that this money or his resignation was any part of any

corrupt or other improper agreement, or prior arrangement touching the senatorial election. To this view of the transaction, there is no direct opposing testimony. Who furnished the $5,000 and the bonds is not shown, except that they were deposited by Jackson E. Sickles to the credit of White, and the certificates of the deposit were sent to him by Senator Clayton. To conclude that it was paid in pursuance of a corrupt agree ment, under and by which Governor Clayton secured his election, we should have to proceed upon presumption in the face of positive statement; and this too without any evidence that the vote of any member of the legislature was influenced by it, at least to his advantage; and when, also, it had been demonstrated, more than once, that he had at the time a clear majority of both houses of the legislature. What he wanted was not votes, for he had them, but he wanted such a condition of things as that he could take the office and keep faith with his friends.

By the retiring of White, Johnson would go to an office, more desirable in tenure and emolument than the one he held, which was apparently sufficient to induce the step. The votes of the members of the legislature did not seem to have been involved in the movement, and White was content to see the matter arranged, and to retire from a position that had become irksome to him. There was no necessary connection between the arrangement with White and the votes of members of the legislature. In itself there was nothing either criminal or corrupt. Certainly there is no law, State or national, punishing such an act. If not a part of a corrupt agreement, by which votes were obtained, or intended to be secured, we cannot see how the arrangement can be made to affect his official character. Then, too, it must not be forgotten that the conference touching White's resignation was not with Clayton, nor ostensibly on his account, but quite exclusively between Hadley and White, and that Hadley was deeply interested on his own account in bringing about White's resignation, for, in that event, the chances were, if indeed it was not certain, that he (Hadley) would become governor, and while the money passed through the hands of Clayton, in view of the other interests involved, we cannot say that others may not have contributed it; and, in a matter so important and so vitally affecting the character and official position of a member of this body, we should not indulge in mere presumptions nor upon impression condemn him. Without giving our approval to the course pursued, we find nothing in it of such a corrupt or criminal nature as to vitiate the election, or to warrant a disturbance of his present official position.

But one matter remains to be considered, and that relates to the alleged corrupt bargain, by which Senator (then governor) Clayton issued the certificate of election to General Edwards, in consideration of receiving votes for his present position in the legislature of Arkansas.

This charge, though the one in which this prosecution mainly originated, has less apparent support than either of the others. Much that has been heretofore said is applicable here. The testimony, instead of showing the corrupt bargain, abundantly establishes that the Senator, (then governor,) though acting from an incorrect view of the law and his duty nevertheless was carrying out what he had at least fair reasons to believe the will of the people, as expressed by their votes. He had evidence tending to show frauds. He had the solemn judgment of the highest court of his State, and the action of the law-making power touching the very point upon which he seemed to doubt; and he but followed such judgment and action. To say that he acted corruptly or fraudulently under such circumstances, we would have to conclude that not only he had the fraudulent purpose, but that the other co ordinate

departments of the State government were corrupt, or governed by a like fraudulent intent. These charges, as applied to the court and the legislature at least, are too grave to be believed upon this record, or in any case where the evidence is not of the most conclusive and satisfactory character. This conclusion should not be based upon mere presumptions—upon the impression of witnesses—upon the understanding of parties influenced not a little by their political and personal feelings and animosities. And yet, divested of all extraneous matter, this is all there is of this claim.

But, going one step further, the charge certainly fails from the fact that there is not a particle of evidence that any member in either house of the legislature was induced to cast his vote in consideration of giving the certificate to Edwards. The claim is that he was to receive the votes of democratic members in return for his action; and yet he received but one vote that can by possibility be classed among the democrats, (and even his political status is left doubtful.) This person was a witness before us, and he says positively that he voted for Clayton, but that there was no understanding or agreement that, in consideration thereof, Clayton was to issue the certificate to Edwards. And there is no evidence nor a single circumstance in the whole record in the least in conflict with his statement. There is therefore absolutely nothing in the least supporting this charge.

We are therefore brought to the conclusion, after a careful examination of all the facts, that there is nothing disclosed touching the charges made, as found in the testimony of Wheeler and Whipple before the "joint select committee," impeaching the official character and conduct of Senator Clayton. We accordingly recommend the adoption of the following resolution:

Resolved, That the charges made and referred to the select committee for investigation affecting the official character and conduct of the Honorable Powell Clayton are not sustained, and that the committee be discharged from their further consideration.

Respectfully submitted.

GEO. G. WRIGHT.
L. M. MORRILL.

TESTIMONY.

WASHINGTON, D. C., *January* 23, 1871.

Hon. JOHN EDWARDS sworn and examined.

The CHAIRMAN. The order has been agreed upon by the committee that the primary if not sole inquiry submitted under the resolution of the Senate is, whether there is anything in the action of Senator Clayton, so far as referred to in the testimony of the witnesses Whipple and Wheeler, that impeaches his official character and conduct as a member of this body, or which bears upon his election to the same, and that the reception of evidence for a purpose more general be left open, to be determined if presented.

Senator CLAYTON. I suppose, under that rule, all the questions relating to the removal of these two officers would be admissible, as that was a part of my official senatorial conduct.

The CHAIRMAN. Such questions, I can state, Governor, will be determined when presented.

Senator CLAYTON. I merely ask the question for the purpose of gov-

erning me in summoning witnesses. I desire to say to the committee that I am very anxious that the investigation should cover the whole range of charges made by these two gentlemen, whether against my character as a Senator or against my administration in the State of Arkansas. I am anxious that it should take that course, and I would be very glad to know, at this time if I can, how that will be. You can readily see that it will be necessary for me to know something of the range the examination will take, in order to be able to summon witnesses for the purpose of rebutting testimony.

The CHAIRMAN. I suppose that, under this order, primarily that would not be admissible. That is to say, the investigation would not be as to your official course as governor, except as it bears upon the question of your election to the Senate and your senatorial conduct.

Senator CLAYTON. It seems to me the question of the removal of these two officers would come under this head, and I shall ask to have witnesses summoned immediately.

The CHAIRMAN. That will be determined hereafter.

Q. (To the witness.) I ask you, in the first place, are you the General Edwards referred to in the testimony of the witnesses Whipple and Wheeler, holding a certificate from Governor Clayton as a member of Congress from the third district of Arkansas?—A. I am, sir.

Q. What do you know, if anything, of the circumstances leading to the issuing of that certificate, and please state what you know of any trade by which, for the giving of that certificate, Senator Clayton was to obtain votes for a seat in the Senate of the United States?—A. Well, sir, in order to show the bearing of the whole case, I must go back and state that at a republican convention held in my town for the nomination of a candidate for Congress, there was a regular candidate nominated by the party, Judge E. J. Searle; that Mr. Boles and his friends, as was stated there, on that day bolted, and nominated Mr. Boles for Congress also. Although a republican from the organization of the party, I differed with my republican friends upon the question of amnesty. I have been in favor of amnesty, and demanded of my friends that it should be coupled with negro suffrage. Hence I ran as an independent republican candidate, differing with them upon that point. After we were in the field some three or four weeks, Judge Searle withdrew, and declined as a candidate, which left Mr. Boles and myself as the only two candidates running. There never was a word passed from Governor Clayton to me, directly or indirectly, as to whether he would favor my election or not; but I do know from letters that he wrote to his friends in various parts of the district, which were shown me, that he supported Mr. Boles as the candidate on that occasion, for the simple reason that I differed with them upon the question of amnesty. Little Rock, the seat of government, which is in Pulaski County, is about 160 miles by land from where I live, at Fort Smith. During the canvass I had not visited that county, but immediately after the election, about ten days after, I went to Little Rock, and was told that very gross frauds had been committed upon the ballot-box in that county by a party of friends in the interest of the election of Mr. Boles. On going there, I ascertained the facts from some of the candidates for the legislature in that county—there were seven candidates for the legislature, one senator—and in consulting with them as to what course to pursue, they informed me that they had addressed a letter to Governor Clayton, calling his attention to the fact of outrages on the day of election. The following is a copy of the communication, which I will read:

"To His Excellency POWELL CLAYTON,
"*Governor of the State of Arkansas:*

"SIR: The undersigned respectfully represent unto your excellency that at the general election in the townships of Ashley, Campbell, Eastman, and Gray, and the precinct of Badgett, in Big Rock township, in Pulaski County, on the 8th day of November, instant, the judges regularly and duly appointed by the board of registrars on review of said county of Pulaski, to hold the election in said townships respectively, were at the several voting-places therein promptly at the hour fixed by law for the opening of the polls thereat, but found the voting-places in the possession of armed bodies of men pretending to act as judges of said election under authority from William S. Oliver, sheriff of Pulaski County; George W. McDiarmid, clerk of said county, and R. F. Catterson, United States marshal for the eastern district of Arkansas; that the persons so pretending to act as such judges held forcible possession of said voting-places, by intimidation and threats of personal violence, drove the duly appointed judges therefrom, and proceeded to hold a pretended election, at which persons of all ages were permitted to vote without regard to registration or residence, and to vote as often as they chose.

"The undersigned further represent that, in the First ward of the city of Little Rock, in said county of Pulaski, a mob of armed men, by personal violence of a serious and disgraceful character, drove the regularly appointed judges from the voting-place therein as early as 6 a. m., and, being subsequently dispossessed, proceeded to hold an election in the streets near by, at which all who applied were permitted to vote as often as they chose, and that without regard to age, residence, or registration; and that the same thing was done in the Third ward of said city of Little Rock.

"The undersigned attach hereto the affidavits of divers persons attesting the truth of the foregoing statements.

"The undersigned further represent that they are informed that the clerk of the county court of said county of Pulaski proposes to include in his abstracts of said election the returns of said pretended and fraudulent elections in the said townships of Ashley, Eastman, Campbell, and Gray, Badgett's precinct in Big Rock, and in the said First and Third wards in the city of Little Rock, and in the latter instance to ignore the returns of the regular election therein.

"The undersigned pray your excellency to declare said election in said townships void; or, if that cannot be done, to see that only the legal and valid returns are included in the abstracts of said election.

"R. S. GANTT.
"E. H. CHAMBERLAIN.
"R. A. HOWARD.
"C. H. WHITTEMORE.
"WILSHIRE RILEY.
"J. W. HOUSE.
"L. B. MITCHELL."

These gentlemen were all democratic candidates excepting Mr. Chamberlain, as I understood. They felt favorable to my election simply because I was in favor of amnesty. I then went to see Governor Clayton on the subject and inquired of him what he was going to do in relation to those gross frauds committed upon the ballot-box in which this mob had overridden the law and sought to defeat my election and that of the other parties interested. The governor informed me that this matter

had occurred here right under his nose, in this attempt to override the law; and that he had received a communication from the candidates for the legislature in that county upon the subject, with various affidavits from very estimable citizens of the county, calling his official attention to the fact. He replied to me that it was his duty to see that the law was faithfully executed, and that in the issuing of the certificate he would be governed solely by the fact, if the legislature and the courts would examine into those outrages in violation of the law, and whatever action the legislature and the courts took he would be governed accordingly in the issuing of the certificate, even at the expense, he observed, if it turns out republicans and lets democrats into the legislature, he would see the law enforced. In consulting with some of these candidates it was agreed that they should commence suit in the supreme court by mandamus, which they did, to compel the clerk of that county, who had failed to return to the office of secretary of state the returns made by the judges of four townships in the county, and to inquire into the proceedings in the township of Eagle and the First and Third wards of the city of Little Rock, where they attempted to oust the judges appointed by law and set up their own polls, which they did; and in those townships there were double polls set up, and the clerk of the court returned to the office of secretary of state nothing but the returns from the illegal polls, and refused or failed to return to the secretary of state the returns from the legal judges. Immediately after that I returned home. The legislature convened in the beginning of January, and I returned again to the city of Little Rock. If I recollect aright, a few days after the legislature convened there was a committee appointed by the legislature to inquire into the frauds committed in the county of Pulaski. The senatorial contest was then creating considerable excitement, and nothing was done, and nothing was expected to be done, by that committee, at least until that contest was over. They went on with the investigation, which resulted in the legislature declaring void those usurped townships and ruling them out. The general assembly declared null and void the returns in those usurped townships, which left me with a majority. According to the returns made to the office the vote cast at the legal polls was 456, which really left me a majority, according to the proclamation, of fifty votes. I never heard directly or indirectly of any bargain and sale while at the city of Little Rock when the legislature was in session in relation to votes to be given for Governor Clayton for the United States Senate. It was stated around there freely—where it came from I do not know—that several democrats would probably vote for Governor Clayton for the United States Senate, for the reason that they wanted Lieutenant-Governor Johnson to occupy his seat as governor, because they regarded him as more liberal upon the question of amnesty, &c., than Governor Clayton was. That I heard as a general rumor, but never heard it from any person, that I knew of, who was authorized to speak; it was a general rumor.

By the CHAIRMAN:

Q. Have you anything further to state in answer to that question?—A. I will state this, sir; that there never was a word passed between Governor Clayton and myself in relation to any conditions upon which Gantt and Mitchell were to decline the contest and on which my certificate was based.

By Mr. MORILLL:

Q. Gantt and Mitchell were candidates?—A. They were candidates for the legislature in that county. The contest was between them and

some republican candidates, a faction called "Brindle Tails," in our State. That is the designation they go by.

Mr. NORWOOD. The classification of one wing of the party.

By Mr. MORRILL:

Q. Do you mean to say that you heard no reason for those gentlemen declining to run for the legislature?—A. I mean that they declined contesting the seat of the two republicans who were in the legislature.

Q. How would his contesting the election defeat you?—A. Well, for the simple reason, as stated by Mr. Chamberlain, that if they went on with the investigation it would unseat two republicans who were in the legislature, and several friends of those two men in the legislature were not pressing the investigation in consequence of the fact that they believed the result would be to unseat those two republicans and let in democrats.

Q. And that would be unfriendly to you?—A. It would be unfriendly to me so far as it would prevent an investigation of those frauds that I was interested in which had been committed in that county of Pulaski.

By the CHAIRMAN:

Q. I do not know, general, but you have answered the question; but I will ask you this: Do you know anything of any bargain of any kind or description leading to the giving of said certificate by which Governor Clayton was to be advanced in the senatorial contest?—A. I do not. I never heard of any.

Q. I will ask you, also, do you know, or have you heard from any well authenticated source, of any corrupt combinations between members of the Arkansas legislature, by which they, or any of them, were to vote for Governor Clayton in consideration of giving the certificate of election aforesaid?—A. I never heard of any.

Q. Was there any agreement of any kind between yourself and Governor Clayton by which you obtained that certificate?—A. There never was any. Governor Clayton always told me that he would be governed by the action of the legislature and the courts. If the courts and legislature investigated those charges of frauds committed there, and declared those returns null and void, and it left me with a majority, he would give me a certificate; if not, he would give it to Mr. Boles.

Q. Was this certificate granted before or after the decision of the courts and the action of the legislature?—A. Afterward.

Q. After both?—A. Yes, sir; after his election to the Senate.

Q. Do I understand that the courts and the legislature both determined that those votes were illegal?—A. Yes, sir; declared null and void the returns made from those townships that they were required to investigate, which left me a legal majority.

By Mr. MORRILL:

Q. Was that determination before or after the election of Senator Clayton?—A. It was after the senatorial contest was over that that investigation was made.

By the CHAIRMAN:

Q. After that you obtained the certificate?—A. Yes, sir.

By Mr. MORRILL:

Q. Your conversation, then, with those democrats, about contesting the seats of republicans, was before or after the election of Senator Clayton?—A. After the election of Senator Clayton.

By Mr. NORWOOD:

Q. Did you at any time have a conversation with any person or pe sons previous to the general election of 1870, in which you advanced th idea or gave the assurance that if you got a full registration in certai counties your influence should be used to induce democratic and co servative republican members of the State legislature, in considerati c thereof, to vote for Governor Clayton for United States Senator?—A Well, sir, if ever I had any conversation with any person about that su ject, in that light, I do not know it.

Q. Did you at any time subsequent to the general election of 187 and prior to the election of the United States Senator, that is, on about the 10th day of January, 1870, have any conversation with an person or persons, to whom you conveyed the understanding or ga the assurance that if Governor Powell Clayton would give you the ce tificate of election as Representative from the third district of Arkans for the Forty-second Congress, you would, in return therefor, use yo influence with democratic and conservative republican members of tl legislature to obtain their votes for Governor Clayton for United Stat Senator?—A. I have no recollection of ever having had any convers tion with any person with that express understanding.

Q. Did you at any time after the said election of 1870, and before y received your certificate of election, write letters to any one, suggestin the idea or giving the assurance that said Clayton would receive su support for United States Senator, provided he should give you suc certificate?—A. I have no recollection of it.

Q. Did you ever say to any one that Governor Clayton's election Senator was dependent upon, or would be affected, by his action in r erence to issuing said certificate of election to you?—A. I have no rec lection of it.

Q. Did you, or not, negotiate or endeavor to stop a certain contest contests, for a seat or seats in the late legislature of Arkansas, said co test being urged by the anti-Clayton men, to oust Clayton membe therefrom, with the view of compromising the same in favor of the Cla ton men, and with the further view of thereby procuring your certifica of election from Governor Clayton?—A. That I have stated in my e dence already taken.

Q. Did you at any time write a letter or letters to any one, to who you stated that you had effected such compromise, or had tried to effe it, with a view to influence said Clayton to give the said certificate?— I have no recollection of ever writing such a letter, or speaking furth upon the subject than what transpired in the conversation between Gan and myself, and that was that in the proceeding with the investigati of those frauds I had no doubt of the result of it, which would lea me with a majority of votes from the office of secretary of state, whi would result in my obtaining the certificate.

Q. Did you, or not, write letters to any one, in which you urged th the votes of certain townships in Pulaski County, which had given m jorities for Boles, should be thrown out, and a certificate given to yo on the ground, among others, that unless they were thrown out the an Clayton men would be elected to the legislature; and did you not wri to friends of Governor Clayton to urge these considerations upon them —A. Well, if I wrote any such letters at all, it was urging an investig tion into those frauds committed.

Q. Did you or not urge among friends of Governor Clayton, befo his second election to the United States Senate, the importance of h giving you said certificate, on the ground that you might thereby l *enabled to induce* democratic members of the legislature to act with tl

said Governor Clayton and against his enemies; and did you or not, before the said second election of Governor Clayton, write letters wherein you declared that if you received the certificate you would render the said Clayton essential service?—A. Well, sir, I have no recollection of ever writing any such letters. I may have written letters in general propositions as to the result, but there never was any understanding between me and Governor Clayton, or any of his friends, upon that subject. I left immediately after the first senatorial election was over, returned home, and about the middle of February I started to Washington City, came by the way of Little Rock, and received my certificate as I passed through; and I was not there when the second senatorial contest came off. I was away from there, and knew nothing at all about it. I was here in Washington when the governor resigned and the election contest came off the second time.

Q. Do you know at whose instance E. H. Chamberlain approached Mr. Gantt, or one of the other democratic members-elect of the legislature, with a view of getting them to resign their positions?—A. I do not, sir. I will say this: that I never had any conversation with any member of the legislature, any of my friends, conservative republicans or democrats, by which, in connection with the investigation of these frauds, or to issue this certificate in consideration therefor, they would have voted for Governor Clayton for the United States Senate.

By Mr. MORRILL:

Q. Mr. Edwards, what time was it that you went to Little Rock?—A. The first time was about ten days after the election; the second time just about the time the legislature was being convened.

By the CHAIRMAN:

Q. Was your election in August?—A. No; on the 8th of November.

By Mr. MORRILL:

Q. You went to Little Rock immediately after that and saw Governor Clayton?—A. Yes, sir.

Q. When was the first election of Governor Clayton to the Senate?—A. If I recollect aright, the second Tuesday in January. I think that was the time; I am not positive about it.

Q. When was the second?—A. The second occurred while I was here, at Washington City—I think in the month of March. I would not be positive, but it was February or March.

Q. When was your certificate given—what is the date of it?—A. I would not be positive, but I think it was about the 17th of February.

Q. It was between the two elections?—A. Yes, sir.

Q. The governor declined the first election, it seems?—A. Yes, sir.

By the CHAIRMAN:

Q. The 20th of February was the date?—A. Yes, sir.

By Mr. MORRILL:

Q. When you were interrogated as to an understanding, or as to any arrangement you might have had with Governor Clayton or his friends, in regard to favoring his election in the contingency of his giving you the certificate, and when you said that there was no express understanding, what did you mean by that? Your language was, there was no express understanding.—A. I say this, that there was no understanding between Governor Clayton and myself, or any member of that legislature, that in consideration of Governor Clayton's issuing to me the ertificate, I was to bring, or my friends were to bring, any votes to him for the office of United States Senator.

Q. Then you did not mean to qualify it when you said there was n express understanding?—A. No, sir; I do not propose to qualify tha portion of it.

Q. You mean to say that there was no understanding?—A. No ur derstanding between Governor Clayton and myself, or any of hi friends.

By Mr. NORWOOD:

Q. I understand you, then, Mr. Edwards, that you disclaim any pe sonal knowledge or any hearsay knowledge of any understanding be tween Governor Clayton and yourself, or between you and Governc Clayton's friends, or between any of your friends and Governor Clay ton as to any arrangement, direct or indirect, by which your certificat of election had any relation to his election to the Senate?—A. I wi state this, that if there was any understanding on the part of anybod who claimed to be a friend of mine with Governor Clayton that certai things would be done or should be done that were to result in the issu ing of the certificate to me, I am not aware of anything of the kind and I state emphatically that, so far as I am concerned individually, had no such understanding with Governor Clayton, or with any of hi friends.

Q. That was what I wanted to get at.—A. Although there were great many rumors going around there to that effect, if there was any I am not in possession of knowledge of them.

Q. Did you hear of those rumors before the issuing of the certificat to you?—A. There were all kinds of rumors.

Q. I mean the rumor about this bargain?—A. Yes, sir.

Q. Did you deny it publicly?—A. Well, I denied it whenever th matter was broached to me—that is, so far as I had any knowledge of it

Q. By whom was it broached to you, and to whom did you deny it —A. I cannot call to my recollection who. I know there were a grea many reports started there at certain times about the investigatior senatorial elections, and everything. I do not recollect whom I talke with, or anything about it.

Q. Was there not a committee appointed by the branch of the legis lature to which Goad and Pilkington belonged, for the purpose of ir vestigating the alleged frauds committed at the polls?—A. Yes, sir so I understood by reading the papers.

Q. Did that committee investigate and make a report?—A. So understood.

Q. Who was chairman, Mallory?—A. Yes, sir.

Q. What was the effect of that report; was it to unseat those tw republican members?—A. The effect of it would have been to hav unseated those two members, provided the other members had contin ued the contest.

Q. Did they withdraw from the contest before or after the report o the committee?—A. It was before the report of the committee, bu after the senatorial contest was over.

Q. They withdrew after the senatorial contest and the election c Governor Clayton?—A. Yes, sir; all the conversation that I heard oc curred after that period.

Q. Do you refer to the first or second election?—A. The first electior I left immediately afterwards, and was not in Little Rock during th whole time, for several weeks, before the second contest.

Q. They were members of the house?—A. Yes, sir.

Q. Did the house ever take action upon the report of Mallory?—A It is so given in the journals and proceedings of the legislature.

Q. Were Pilkington and Goad unseated?—A. They were not. The fact is the other two men withdrew from the contest and there was nobody to contest their seats.

Q. Were they supporters of Governor Clayton's election to the Senate?—A. Well, sir, I would have to draw upon my memory for that, and I could not state positively. I think one of them voted for him, and I think the other did not; but I would not be positive as to that, sir.

By Senator CLAYTON:

Q. I should like to ask some questions. If any trade of the character alluded to had been made, would you have been likely to know it?—A. Well, it appears to me that if there had been any understanding between any of my friends in relation to that matter, they would have advised me; but there never was one, to my recollection, who ever approached me upon that subject, further than the withdrawal of Gantt and Mitchell.

Q. Prior to my first election to the United States Senate, did you ever hear it charged by any person that any democratic votes that I might receive would be contingent upon your obtaining the certificate of election?—A. Not in the least.

Q. Did you ever, at any time, either directly or indirectly, have any understanding with me, or any one of my friends purporting to come from me, to the effect that this certificate would be issued to you if you induced certain democrats to vote for me?—A. Never.

Q. You spoke of a visit made to me after the election?—A. Yes, sir.

Q. Was that the first visit you ever made to me in which you brought that question up?—A. Yes, sir.

Q. Did we ever have any interviews after that in relation to your election?—A. Yes, sir; we had several interviews.

Q. Did I leave you in doubt as to my probable action?—A. You always told me that you would be governed entirely in the issuing of the certificate by what action the legislature and the courts would take; that if, on investigation in relation to those frauds that had been brought to your knowledge, it resulted in declaring those usurped and fraudulent returns null and void, and that left me with a majority, you would give me a certificate; if not, that you would issue it to Boles.

Q. Up to the time you received this certificate, were you in doubt as to whether you would receive it or not?—A. I was in very great doubt.

Q. I should like you to explain more fully the bearing of the contest in the legislature in relation to the two seats you mentioned. You say that Good and Pilkington were republicans?—A. That was my understanding.

Q. And that the other two were democrats? Who were the other two? You have not stated their names.—A. Gantt and Mitchell.

Q. Do I understand you to say that your interest in preventing a contest of their seats was to bring about an investigation?—A. Yes, sir.

Q. Your interest was to ascertain the facts?—A. Yes, sir; through a legislative investigation in relation to the frauds committed in Pulaski County.

Q. With a view of having those facts brought to my knowledge in an official way?—A. That was my object.

Q. And you were afraid that if Gantt and Mitchell did not withdraw, the republicans in the house would be loth to bring about an investigation, which would throw out two republicans?—A. That was the view I took of it.

Q. Did you regard that as affecting my election in any way?—A.

Not in the least, for that occurred after the senatorial contest was over, and I saw by the vote that you had a very large majority in both branches of the legislature over both democrats and "Brindle Tails" combined.

Q. Who did you favor for the United States Senate from the first? Who were your sympathies for after the election was over?—A. My sympathies were for you, sir.

Q. That is what I wanted to know. Did you expect, under any circumstances, to give me your support, so far as it went? In other words, would your support have been changed had you not received this certificate?—A. Not in the least.

Q. It was not contingent, then?—A. In relation to the candidates as spoken of between republicans, you were my choice.

By Mr. HODGES:

Q. I would like to have one matter understood a little better. I understand you are an attorney, Mr. Edwards. Well, if the adoption of that report in the house ousted those two members in effect, how did the fact of the other two having withdrawn a contest affect the matter? How came they to remain there and continue to vote, if the effect was to oust them from the house?—A. If I understand you correctly, you mean what affect it would have for Good and Pilkington to remain.

Q. Why did they remain? Had they any right there if the adoption of that report ousted them?—A. That is a question which I had nothing to do with, and I do not know that I can give any opinion as to what reason controlled the legislature after they adopted that report. Gantt and Mitchell had withdrawn their contest, as I understood. Why the legislature did not go on and turn Good and Pilkington out under that state of facts, I do not understand, unless it is that the other two men had withdrawn the contest.

Q. Did not the adoption of the report turn them out?—A. I think not.

Q. Was not that its effect?—A. It would be if there was a contest going on.

Q. Was it not the same?—A. I do not know. That is a question of law.

By Senator CLAYTON:

Q. I will ask you, Mr. Edwards, whether that committee was raised for the purpose of determining contested seats?—A. My understading was that it was raised for the purpose of inquiring into the frauds committed in the county of Pulaski; and whether it was before that committee was raised or afterward I cannot exactly state, but I am inclined to the opinion that it was after that committee was appointed by the legislature that Gantt and Mitchell served notice of contest, I think, against Good and Pilkington.

Q. If those two gentlemen had not withdrawn from the contest they would have been affected by this investigation the same as you were affected?—A. The same as myself, and it would have unseated Good and Pilkington.

Q. If they had continued the contest it would not only have given you your certificate, but shown that they were entitled to the seats?—A. Yes, sir.

By Mr. HODGES:

Q. How was that report to affect you?—A. Only as stated by the governor to me on various occasions, that if the legislature declared null and void the returns of certain elections made from certain townships in

the county, he would not consider those returns in counting up the vote as returned for member of Congress.

Q. Was it not to affect you in this way, by throwing out the vote of certain townships?—A. Yes, sir.

Q. That report did throw out the vote of certain townships?—A. Yes, sir.

Q. Did not the throwing out of those votes show Good and Pilkington not elected?—A. It would show them not elected provided Gantt and Mitchell carried on the contest.

Q. Did that make any difference?—A. That is a question of law.

WASHINGTON, *January* 24, 1872.

Hon. JOHN EDWARDS recalled.

The WITNESS. Mr. Chairman, if you please, I desire to make a few corrections in the report of my evidence given yesterday, as I have read it.

The CHAIRMAN. You can proceed.

The WITNESS. In my answer, on the 5th page, in the 11th line, I wish to insert between "with" and "them," the words "some of," so as to read, "and in consulting with some of them as to what course to pursue, they informed me," &c.

In the 7th page, on the 4th line, after the word "county," I wish to insert "which had been detached from Prairie County and attached to Pulaski County by law," so as to read "who had failed to return to the office of secretary of state the returns made by the judges of the four townships in the county, which had been detached from Prairie County and attached to Pulaski County by law, and to inquire into the proceedings of the township of Eagle," &c.

At the end of the 7th page, after the word "over," the last word on that page, I wish to insert "the committee to investigate the Pulaski frauds was appointed after the senatorial election was over, on the 12th of January, as the house journal shows."

On the 11th page, after the word "majority," in the 19th line, I wish to insert "of 456 votes returned for me from the township of Eagle and the First and Third wards of the city of Little Rock. By the decision of the supreme court it was a mistake that these votes were not counted for me. If they had been, my majority would have been 451, but as made out by the proclamation it was only 50."

On page 17, where my answer to the question whether I had ever written letters suggesting the idea or giving the assurance that Governor Clayton would receive the support of my friends for the Senate, provided he gave me a certificate of election, was, "I have no recollection of it," I wish to add:

"I wrote to a number of persons in relation to the allegation of frauds committed, and asking my friends to use their influence to have an investigation into the frauds; and I urged that I was entitled to the certificate for the reason that I had a majority of the legal votes; but I have no recollection of ever writing any letter bearing directly on the point of any agreement or trade to secure votes for Governor Clayton for the United States Senate. If I ever wrote any such letter, I could in truth have said I was in favor of Governor Clayton's election, but whether I ever wrote such a letter or not, I here state, in answer to any and all such questions, that there never was any understanding between

Governor Clayton and myself that I was to use my influence to secure votes for him in consideration of the certificate being issued to myself. Nor was there any understanding between any member of the legislature and myself as to how he was to vote in the senatorial election. I never knew of any bargain being made, or offered to be made, to that effect, with any member of the legislature, or any one else authorized to do so. The withdrawal of Gantt and Mitchell from the contest of the seats of Good and Pilkington was done solely on the ground that I have stated, and was after the senatorial contest was over."

Cross-examined by Mr. BARNES:

Q. You stated in your examination-in-chief that a republican convention was held at Fort Smith, at which E. J. Searle was nominated for Congress?—A. Yes, sir.

Q. And that Mr. Boles and his friends bolted that nomination?—A. That was the impression or report there at the time.

Q. Were you at the convention?—A. I was not a member of the convention. It was only what I heard in the street.

Q. What you stated in reference to that convention and the action of Mr. Boles and his friends is not from your own knowledge?—A. No, sir; only the report in the streets and what I heard from the delegates to the convention.

Q. What delegates did you receive such information from?—A. I could not say what one. There were a great many there.

Q. Did you not state in your examination-in-chief that you differed from the republican party alone upon the question of amnesty?—A. That may have been the principal cause. I did not detail the points.

Q. That was the principal cause?—A. I was in favor at the time the constitution was adopted of extending the right of suffrage to the mass of the whites, coupling it with negro suffrage.

Q. Did you not oppose General Grant for the Presidency?—A. I did not.

Q. Did you not vote against him?—A. I did not vote at all at that election. I was not at home, to my recollection.

Q. Did you not support the democratic nominee for the Presidency?—A. I did not. I attended meetings wherever I could get a crowd to speak to I addressed them. I went to several democratic meetings, and made speeches in opposition to the constitution, but never said one word in relation to Seymour and Blair and the presidential canvass.

Q. Did you not make speeches against the reconstruction measures, and were you not openly against them?—A. I was only opposed to them in certain points, and did my best to induce republican friends to adopt a certain line of policy.

Q. Did you not make speeches against the reconstruction measures, and denounce them?—A. I denounced part of them; not all of them.

Q. What part of them?—A. I was in favor of coupling amnesty to the masses with negro suffrage.

Q. What did you denounce?—A. I denounced the adoption of the present constitution.

Q. What reconstruction measures did you oppose and denounce?—A. What I opposed was as a republican; I opposed the adoption of the present State constitution under the reconstruction laws, and gave my reasons at the time for it, and made speeches, all that I could, against it. I was in favor of the constitution as a whole, but there were some things I objected to.

Q. Did you not oppose it upon the ground that it provided for negro

suffrage?—A. No, sir; because I was in favor of negro suffrage, coupling it with amnesty for the masses.

Q. Did you not make speeches of that kind at Fort Smith and elsewhere?—A. I made my speeches in this way: in favor of adopting negro suffrage upon an intelligent individual basis, and if that could not be done, if universal negro suffrage was to be adopted, then I was in favor of coupling general amnesty with it.

Q. I am instructed to ask you if you did not publicly state when you voted against the constitution that you had destroyed the colored vote by that act?—A. I declare, sir, I cannot recollect; it has been so long ago.

Q. Do you say you did not make any such statement?—A. I cannot say that I did not. I do not recollect anything about it.

Q. Did you not state that you would rather lose your right arm than to have negro suffrage, or words to that effect?—A. I have no recollection. I may or may not have said so. I do not know what I may have said at that time. It is impossible for me to tell.

Q. You stated in your examination-in-chief that after the election you went to Little Rock, having ascertained the gross frauds that had been committed upon the ballot-box in the county of Pulaski by a party of friends in the interest of Mr. Boles?—How do you know that? Do you know it of your own knowledge? A. I know it from newspaper report and what a great many individuals told me.

Q. That is all the way you know it?—A. All the way.

Q. We want what you know of your own knowledge?—A. I only know that.

Q. Then all you stated in your examination-in-chief in reference to frauds upon the ballot-box or violations of the election laws you gathered from newspaper reports, and know nothing of your own knowledge?—A. I was not in the county during the election, and all I know is from other people who were there, and newspaper reports.

Q. What time did you go to Little Rock? How long after the election was it before you went to Little Rock?—A. As near as I could recollect, I suppose ten or twelve or fifteen days after the election. I would suppose so.

Q. You stated that you had a conversation with Governor Clayton in reference to the election. Where did you have that conversation and when?—A. I cannot say. It was after my arrival at Little Rock. I think it was in his office, in the executive department of the State.

Q. Did you seek the conversation, or did he?—A. I sought it myself.

Q. You stated in your examination-in-chief that he said he intended to abide the result of the decisions of the supreme court and the legislature. Did he tell you how the result was to be ascertained, or the matter was to be investigated, in the supreme court or in the legislature?—A. Having heard myself of the frauds committed at the election, I went to see the governor to ascertain what he was going to do about the election, and he told me, so far as I can now recollect his words, that he intended to await the action of the legislature and the courts. If they took action in the matter, he would be governed according to their decision—the action of the legislature and the courts.

Q. Did he tell you that the courts and the legislature would take action in reference to the matter?—A. He did not tell me that they would. He said he would be governed entirely by them.

Q. Did he and you agree that the courts and the legislature should act in this matter?—A. I had no agreement with him at all.

Q. None at all?—A. No, sir.

Q. No arrangement or agreement as to how the courts or the legisla ture should act?—A. Nothing further than I have stated.

Q. Did you advise how the decision should be had in the Suprem Court?—A. I never did more than advise the parties to bring suit some of the members of the legislature.

Q. Whom did you advise to bring suit, and where did you advis them to bring that suit?—A. I do not recollect who now, nor where ex actly, but that was my advice. I had intended to have brought sui myself if the members of the legislature had not done it.

Q. You advised some of the members of the legislature. Do yo not remember the names of any of them that you gave such advice to —A. I think that Robert Howard was one.

Q. Did you give that advice after you had the consultation witl Governor Clayton?—A. I do not know whether I did or not.

Q. What is your best recollection?—A. I could not say.

Q. Is it not your best recollection that you gave that advice just afte your consultation with Governor Clayton?—A. I think we had the mat ter up before and afterward too. I had intended myself to have brough suit if the candidates for the legislature had not.

Q. Did you not talk with Chamberlain about the matter then?—A. may have talked with Chamberlain.

Q. Was Chamberlain in the governor's office?—A. He was not.

Q. Was anybody else in the governor's office when you had this con sultation?—A. I do not recollect of anybody else being present.

Q. Were all the conversations between you and the governor private —A. Always private.

Q. Nobody present but you and him?—A. None that I recollect; a least none who were engaged in the conversation. There may hav been outsiders in his office, but not any one present who engaged i conversation.

Q. Did you examine the returns on file in the office of the secretar of state in reference to the congressional election at the time you ad vised with Governor Clayton or before or afterwards?—A. No; I do no think that I did examine them, because I had statements from othe persons—I do not know who; perhaps the secretary of state—as to how they stood.

Q. You stated that you would have brought suit if Howard and others had not?—A. Yes, sir.

Q. Where would you have brought the suit, and what sort of a suit?— A. In the supreme court.

Q. What sort of a suit?—A. A mandamus to compel the clerk of the court to have sent up returns there that I was told he had not done.

Q. Were you and Governor Clayton agreed in reference to the sort of suit that should be brought in the Supreme Court?—A. I do not know that Governor Clayton and I had any agreement about it what ever.

Q. Did he talk about the mandamus in the conversation with you?— A. I cannot say that he did.

Q. Is it not your best recollection that he did?—A. I do not recollect the kind of suit mentioned, but it was merely a general proposition o question as to whether the courts or the legislature would take action in the matter.

Q. Did you advise with the lawyers who conducted the suit in th Supreme Court upon the mandamus case?—A. I advised with Colone Gantt on the subject.

Q. You advised with him?—A. Yes, sir; more perhaps than with any other.

Q. Did you agree to pay part of the fees, to have that suit prosecuted?—A. I never did, to my knowledge.

Q. Not in any way?—A. Not in any way, to my knowledge.

Q. You were anxious for the legislative committee to be raised?—A. O, yes.

Q. You suggested that, did you not?—A. Yes, sir.

Q. Suggested it yourself?—A. No, sir; I do not know that I did.

Q. You and Governor Clayton together suggested it, did you not?—A. I do not know that Governor Clayton did, but I heard perhaps fifty others suggest it.

Q. You and Governor Clayton then advised about that proceeding that was to be had in the legislature?—A. Nothing more than in the general way that I have stated; that supposition was, or the general understanding——

Q. I do not want any of your general understandings. I want what you know. That is not evidence. Did not you and Governor Clayton advise and agree that the proceeding which was set on foot in the legislature, to investigate the election frauds, should be set on foot?—A. I cannot say that there was——

Q. Can you say that you did not?—A. I only understood Governor Clayton in this way——

Q. I ask, can you say that you did not?—A. All that I say about it is that, after going there, ascertaining about these frauds having been committed, I was anxious to have the whole matter investigated by the courts and legislature. I urged my friends, wherever and in every place I could, to have an investigation.

Q. Such an investigation as was had?—A. Such an investigation as was had.

Q. Precisely?—A. I could not state whether precisely or not.

Q. You advised the investigation that was had?—A. I advised that investigation.

Q. And you say that Governor Clayton also advised it?—A. Governor Clayton was in favor of it.

Q. He was, to your certain knowledge?—A. He was.

Q. And he and you were agreed, then, that that proceeding that was set on foot should be set on foot?—A. We were agreed as two gentlemen would agree to any proposition. There was nothing further than that. I had nothing further to do.

Q. Did not you and Governor Clayton, or one of you, furnish some of the names that would act upon that committee?—A. I never furnished a name, and never was concerned. The only man that ever I had any talk with on the subject, to my certain knowledge, was Chamberlain, in any way, shape, or form.

Q. When did Chamberlain talk to you about the matter?—A. He talked to me in the first place that he was in favor of having that investigation go on.

Q. Precisely such an investigation as took place?—A. About such an investigation.

Q. Did he inform you in that conversation that that was the desire of Governor Clayton?—A. Yes, sir.

Q. He told you he had consultations with Governor Clayton with reference to it?—A. He said he had a talk with Governor Clayton, and he wanted to have this matter investigated.

Q. And he was moving at the instance of Governor Clayton?—A. have no recollection.

Q. Is it not your best recollection?—A. I have no recollection on tl subject; it may have been; I cannot say.

Q. Did he not have frequent consultation with Governor Clayt during that time?—A. I do not know; I never saw him at any tin when he was with Governor Clayton, to my recollection.

Q. Did you not hold your communications, as a general thing, wit Chamberlain?—A. Yes, sir; perhaps more than with any other ma there. I think he was about the only man in the legislature with who I held communications.

Q. And in all these communications he told you that he was actir by the advice and consent of Governor Clayton?—A. No; he did not.

Q. Part of them he did?—A. I frequently asked him myself if I had any talk with Governor Clayton, and if Governor Clayton was goir to use his influence toward having an investigation made, but he nev admitted anything of the kind to me.

Q. Did he not tell you that he had consultations with Clayton?—. Toward the last he told me that he had conversations with Govern Clayton.

Q. And Governor Clayton approved it?—A. Yes, sir; he approv the investigation.

Q. Chamberlain was very active in this matter, was he not?—A. cannot say that he was. I never had any acquaintance with Chambe lain previous to my arrival at Little Rock after the election. It appea he ran on the same ticket that I did, and he seemed to know more abo the election matters than any man in the county.

Q. I do not ask you about that. Was he not a very active friend Governor Clayton during the sitting of the legislature, and whi these troubles were on hand?—A. He always told me he was a frier of Governor Clayton, and wanted him to be elected to the Senate.

Q. You were a friend of Governor Clayton, too, were you not?—. Yes, sir.

Q. You were very anxious for his election to the Senate?—A. I pr ferred him over the republicans who were then talked of. He was a independent republican, and I preferred his election over any other ma who was talked of at that time.

Q. You tried your best to have him elected to the Senate?—A. I d not know that I did. I do not think I put myself out of the way about i

Q. What do you mean when you say "put yourself out of the way! —A. If a man met me in the street and asked me whom I preferred, told him I preferred Clayton.

Q. Did you talk with the members of the legislature, and urge ther to support him?—A. Not a man, to my knowledge.

Q. Did you not even write letters urging his election?—A. In a probability I did. It was very natural that I should.

Q. Very natural that you should?—A. That I should have writte just such letters, because I was anxious to see him elected over an other man that was talked of.

Q. Were you a friend of Lieutenant-Governor Johnson about th time?—A. I do not know but what we were friends. I do not kno that I have ever been unfriendly with him.

Q. Were you not in favor of Johnson being disposed of in some wa or other if Clayton was elected?—A. No, sir; not to my knowledg Johnson and I were always personally on very friendly terms.

Q. Did you have any consultations with Thomas Bowen about tl

time you were at the legislature urging your certificate to be issued by Governor Clayton?—A. Yes, sir.

Q. Did you have any with Judge McClure?—A. I do not think I did.

Q. Did you have any with Judge Bennett?—A. I do not think I had any with Judge Bennett.

Q. Did you have any with Judge Ham?—A. I have no recollection of ever having any with Judge Ham.

Q. Did you have any with Judge Wilshire?—A. I think it is more than probable I may have talked over the question of the investigation with Judge Wilshire.

Q. You referred to a letter in your testimony, which you had copied into it, signed by various persons. Where is the original of that letter?—A. I do not know; I never saw the original. I was only told that was a copy.

Q. The letter, then, you had incorporated in your examination-in-chief you were only told was a copy?—A. Yes, sir; I was told it was a copy.

Q. You do not know, then, that it was a genuine document of your own knowledge, and when you referred to it you did not mean to indorse it as genuine?—A. Merely as published, and a public document.

Q. Then the affidavits referred to in that letter you do not know of your own knowledge to be genuine?—A. I never saw one of them.

Q. How long did you remain in Little Rock on the first visit you referred to, after the November election in 1870, before you returned? You stated in your examination-in-chief that you returned home before you left for Washington?—A. I do not recollect how long I remained in Little Rock, but I think I returned somewhere between the 15th of January and the latter part of the month. I do not recollect exactly; it may have been the 20th or 25th; somewhere along there, perhaps.

Q. Were you at Little Rock when Governor Clayton was first elected to the Senate?—A. Yes, sir.

Q. Were you active in his support up to that time?—A. I was not. I took very little or no interest at all in it. I was confined most of the time in my room with sickness. I never spent one day in the legislative hall in my life, put it all together.

Q. I believe you live at Fort Smith?—A. Yes, sir.

Q. Before you left Fort Smith for Washington, did you know that on your way to Washington you would obtain your certificate of election?—A. No, sir; I did not know whether I would or not. All I knew was that Governor Clayton would govern his action in relation to the certificate according to the action of the legislature; and I saw by the papers that the legislature had taken certain action, and I then came on down to Little Rock and obtained the certificate, and came on to Washington.

Q. Did you not state, in your examination-in-chief, that you started from home for Washington, taking Little Rock in your route?—A. Yes, sir.

Q. Did you not know, before you left your home at Fort Smith, that Governor Clayton would issue you your certificate of election, and furnish it to you on your way to Washington?—A. All I knew about it was this, that Governor Clayton said, and he told me, that he would square his action according to the action of the legislature; and the legislature having taken this action, as I saw it in the papers, I took it for granted that he would issue the certificate accordingly.

Q. Were you not advised by letter before you left home, that Governor Clayton would issue that certificate?—A. I think it more than probable; it may be.

Q. Who informed you?—A. I do not know. So many letters passe upon the subject that I do not recollect.

Q. Who do you think?—A. I do not know who.

Q. You are satisfied, however, that you were advised before you le for Washington that you would get the certificate?—A. Yes; and I pr sume it was based upon the action of the legislature.

Q. Is it not the fact that one of Governor Clayton's friends at th time advised you to go on; that you would be furnished your certifica of election when you got to Little Rock?—A. I cannot say whether o of Governor Clayton's friends wrote to me to that effect or not.

Q. Is it not the fact that you were so advised?—A. I cannot s whether I was so advised.

Q. What do you mean by "the action of the legislature?"—A. I mea passing upon those frauds, and declaring null and void the election in ce tain townships.

Q. You mean the action of both houses?—A. Yes, sir; the action both houses.

Q. Were you at Little Rock when Governor Clayton was elected t second time?—A. I was not.

Q. Give the date when you left Little Rock for Washington.—A. cannot say that I can exactly.

Q. Give it as near as you can.—A. To the best of my knowledge, was about the 23d of February. I am not right certain, but I think was along there, within a few days, before or after.

Q. Give the date you left for Little Rock upon your first visit, and t boat you left on.—A. I cannot do that.

Q. What time did you get back to Fort Smith after you left Litt Rock the first time?—A. I cannot recollect that.

Q. What time did you leave Little Rock, then?—A. For where?

Q. For Fort Smith.—A. I stated, I think, a few moments ago tha if I recollect aright—I would not be positive—it was somewhere b tween the 15th and 25th of January.

Q. Do you think it was after the 20th?—A. I think it was. I am n right positive.

Q. That is your best recollection?—A. I can have no distinct reco lection.

Q. What boat did you go on?—A. I do not recollect that.

Q. Do you remember any person that went up on the boat wit you?—A. I do not know. I went up so often. I do not recollect t boat or the persons on board.

Re-examined by Mr. BOWEN:

Q. It has been stated in the testimony of some other witnesses, an perhaps referred to in your own testimony, that two certificates wer issued to you. I wish you to state to the committee the circum stances, and how it came about that two certificates were issued an why.—A. At the spring session of Congress there was a contest befor the Committee of Elections of the House, between Mr. Boles and my self. On my admission on a *prima-facie* case upon the certificate, M Boles raised the question before the committee that at the time Gove nor Clayton issued me the credentials he was laboring under a disabilit by impeachment, and the matter was discussed *pro* and *con* before th committee; and in my argument to the committee I stated if that wa any objection at all, if it was the fact that Governor Clayton was su pended at that time, that there were several days before he could issu the credentials that he did, he could issue them afterwards; and I sa

by the papers and facts afterward that the articles of impeachment had been dismissed; and I telegraphed to Governor Clayton to send me up a new set of credentials after the articles of impeachment had been dismissed; but before I received them, the day before, the Committee on Elections, on the part of the House, had passed upon the first credentials and admitted me on them.

Q. Did Governor Clayton, at any time, in any conversation with you, state to you the motive which induced him to desire the investigation of the Pulaski County frauds? If so, state what it was.—A. I can only state in answer to that, that Governor Clayton always said in general terms that if the legislature went on and investigated into those frauds, and it resulted in declaring null and void the returns from certain polls or townships, he would be governed in issuing his certificates according to the action of the legislature.

Q. State whether anything further was said in regard to the motive for having this matter investigated, or desiring this investigation.—A. I never heard anything more said in relation to the motive except that the governor said there had been a violent outrage committed on the law there right under his nose, and he would like to see the matter investigated. I do not know that there was any other motive.

By Mr. NORWOOD:

Q. When, and from whom, did you first receive the information or intimation that Governor Clayton would issue to you the certificate of election?—A. I can only state in relation to that, that I lived one hundred and fifty miles from where the governor did at the seat of government, and I saw a great many persons passing back and forward between the seat of government and my place, and the word came to me frequently from various parties in relation to these frauds that were committed down there in the election, and it was stated to me that the governor had declined issuing the certificate on account of those frauds, and said he would wait to see if the legislature and the courts would take the matter into consideration before he would issue the certificate. I heard that from various parties before I saw Governor Clayton.

Q. Who were those parties?—A. I do not know who they were; they were persons passing up and down on the boats; some of them, perhaps, citizens of Little Rock; it was common talk.

Q. Were they the friends of Governor Clayton in that political contest?—A. They were all sides.

Q. You heard it from both sides?—A. Yes, sir.

Q. Now fix the date, as well as you can, when you first heard it.—A. I cannot fix the date.

Q. Fix the month.—A. It was in the month of November, I should think, that I first heard of it. The latter part of November I should say, or some time in November.

Q. It was then that you heard that the governor would not issue the certificate to Mr. Boles until the frauds were investigated. Was that what you say was common rumor?—A. Since I come to think of it, the returns did not get in—a great many of the returns—until pretty late; but it was after the returns got in, so that they could begin to form some opinion as to how the election stood; but I could not say how this was, because the returns from a great many counties were delayed beyond the time required by law.

Q. Were you not in Little Rock between the date of the election and the date that you first heard this, down at Fort Smith?—A. Since I come to think of it, I could not say positively whether I heard anything

of this at Fort Smith at all or not. I think, perhaps, the probability I did not hear anything of it until I came to Little Rock, but I do n know exactly. I suppose it was ten or fifteen days after the electic when I came to Little Rock. I heard of these frauds, but had not hea what course the governor would take.

Q. Did you go to Little Rock, in whole or in part, on account of tl election, to see what the result of the election was, and whether yc would get your certificate?—A. I had heard a good many reports pas ing up and down the river in relation to fraud being perpetrated, an some stated that I was elected by a large majority, and others that M Boles was elected; and I could not hear the truth, and I went dow to see.

Q. Was it then and there that you had an interview with Govern Clayton?—A. Yes, sir; then and there.

Q. In that interview, or in a subsequent interview that you had wit Governor Clayton, did he give you to understand, by intimation otherwise, that his action would be based solely upon the result of tl investigation by the legislature, or that he would issue the certificate you any way?—A. I will state this, that Governor Clayton never said great deal to me upon the subject further than this: says he, "I will l governed in my action in relation to the issuing of the certificates e tirely by the action of the legislature and the courts."

Q. When did you first hear of the proposition for Gantt and Mitche to retire—not ask for their seats in the house, and for a certificate election to be issued to you?—A. It was a few days after the senatori election, a day or two after; maybe the next day.

Q. What do you mean by senatorial election?—A. I mean, after Go ernor Clayton was first elected to the Senate.

Q. Was it after the first election?—A. After the first election.

Q. The proposition for this arrangement was prior to that arrang ment?—A. If it was, it never came to my knowledge.

Mr. BOWEN. I call the attention of the witness to the question aske a moment ago by Senator Norwood. There are two points in that que tion, and I ask to have it divided.

Mr. NORWOOD. Let the question be read to the witness.

The question was repeated as follows:

Q. When did you first hear of the proposition for Gantt and Mitche to retire, not ask for their seats in the house, and for a certifica of election to be issued to you?—A. I do not comprehend that in th way exactly. I will state separately.

By Mr. NORWOOD:

Q. You know that there was a report that if these men would reti the certificate of election would be issued to you. I am not speaking it as being true or false; but I want to know when you first heard any such proposition as that?—A. I will state that the first I ev heard of that was after the senatorial election, maybe the next da maybe two or three days.

By Mr. BARNES:

Q. You stated, in your answers to questions propounded to you b Senator Norwood, that you had heard upon all sides, or from all side that Senator Clayton intended to be governed by the action of th courts and the legislature. Do you mean to say that you heard fro all sides that there were frauds, or that Governor Clayton intended t be governed by the action of the courts and the legislature? What d you really mean when you say you heard from all sides?—A. What

mean to say by that is this, that I heard, as a common report going around, from different persons, that Governor Clayton would be controlled in his action in the issuing of the certificate by what action might be taken by the legislature in relation to the frauds perpetrated in Pulaski County. That is what I intended to say.

Q. Now do you mean to say that you ever had any such information from a human being until after you had your first interview with Governor Clayton?—A. I do not state that this conversation was previous to that time.

Q. You do not mean to be so understood if you have stated it?—A. No, sir.

By Mr. NORWOOD:

Q. You made that impression upon me.—A. I corrected that afterward, Senator; I undertook to correct it at least. So much has been said about this thing, and at that time during the election, that it is a pretty hard matter for me to recollect all these things growing up—these reports and rumors.

By Mr. BARNES:

Q. Did you ever hear an intimation from anybody in reference to the action of the courts or legislature until you had an interview with Governor Clayton?—A. I do not think that I did.

Q. The idea was first originated by him, was it not?—A. I do not know whether it was or not.

Q. Is it not your best recollection?—A. That is what Governor Clayton told me the first interview I had with him.

Q. You had had no intimation from anybody else upon that subject before that time?—A. No, sir.

Q. What man of the opposition—when I say "the opposition" I mean persons not friendly to the election of Clayton—told you that Governor Clayton would be governed by the action of the courts and the legislature?—A. I do not know, sir. I do not know whether Governor Clayton told anybody or not.

Q. That is not the question I propounded to you. I am attempting to ascertain from you who told you, aside from the friends of Governor Clayton and himself, that he would be governed alone by the action of the legislature?—A. It would be impossible for me to recollect all these things.

Q. Can you pretend to say that any human being opposed to the election of Governor Clayton ever told or intimated to you that Clayton would be governed by the action of the legislature, or even talked to you upon the subject?—A. I cannot say positively, only in general terms.

Q. What "Brindle-tail" ever told you?—A. I did not say "Brindle-tail."

Q. Do you mean to say that any man termed or known as "Brindle-tail" republican ever intimated to you that Governor Clayton would be governed by the action of the courts and the legislature?—A. When I had my mind on that I had relation to democrats. I had very little to do with Brindle-tails.

Q. Then the talk you had and the general report you mean to refer to was had on the part of democrats and Clayton republicans?—A. I presume—yes, sir; those were most of the men that I had any consultation or talk with.

Q. Do you know of your own knowledge that the returns of election were delayed or got in late?—A. All I know about that is what the secretary of state and the governor told me.

By Mr. BARNES:

Q. Did not the secretary of state and the governor inform you when you reached Little Rock, at the time of your first interview, that the returns had all been made in due time, and that they were regular upon their face?—A. No, sir; I never so understood it.

Q. Did Secretary White inform you to the contrary?—A. I do not know whether I ever had any talk with Secretary White on the subject or not. I had a talk with his deputy, Strong.

Q. I am not asking for what his deputy said. Did Gantt tell you he had made the arrangement?—A. Gantt told me this: "I understand that if Mitchell and I will withdraw from the contest against Goad and Pilkington the investigation will go on in the legislature, and probably will result in giving you the credentials." He told me he did not care whether he had a seat or not; that he was anxious for me to go to Congress, as I would vote for amnesty.

Q. Gantt told you that if he and Mitchell withdrew it would result in the certificate being issued to you?—A. In an investigation.

Q. Did he not state to you in that conversation that it was agreed that if he and Mitchell would withdraw from the contest the certificate of election would be issued to you?—A. Upon the ground I have just stated.

Q. He said upon that ground?—A. Yes, sir.

Q. Did he not state that that was the agreement?—A. He said that that was his understanding, that I would get the certificate provided——

Q. That was his understanding?—A. Yes, sir.

Q. Did he not state that that was the agreement?—A. All I know about it is, that Colonel Gantt came to me and told me that he had an understanding that if he and Dr. Mitchell would withdraw from the contest against Goad and Pilkington there were a good many republicans there who were opposed to carrying on this investigation, because, he said, it would unseat Goad and Pilkington two republicans; but he said if they would withdraw from the contest he had no doubt that the investigation would proceed, and result in declaring null and void the election in those illegal townships, which would result in giving me the certificate, and that I would be in Congress and vote for amnesty.

Q. Did he not tell you that that was expressly agreed upon, that he and Mitchell intended to withdraw from the contest in the legislature in order to secure you the certificate of election?—A. I asked Gantt who he derived his information from——

Q. Did he not tell you that it was expressly agreed upon that he and Mitchell intended to withdraw from the contest in the legislature in order to secure you the certificate of election?—A. He observed that he understood that arrangement could be effected.

Q. Did he not tell you that that arrangement had been perfected?—A. He did not tell me that it had been perfected.

Q. Did he not tell you that he and Mitchell had withdrawn, or would withdraw, and that the certificate would be issued to you; that he had actually made the arrangement?—A. He told me this: that he was authorized to act for Dr. Mitchell, and whatever he did Dr. Mitchell would acquiesce in; but, at the time of that conversation, he had entered into no arrangement.

Q. Did he not tell you he was going to make the arrangement?—A. He said that he was willing to do it.

Q. Did he tell you he was making the arrangement through Chamberlain?—A. I do not recollect.

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matter of this certificate, I know nothing about it. I heard the question raised during the contest between Mr. Edwards and Mr. Boles in the House of Representatives.

Q. How far did you, at that time, reside from Little Rock?—A. I formerly resided in Little Rock. At that time I resided, on a straight line, I suppose about forty miles from Little Rock. I suppose I spend a third or perhaps half of my time in Little Rock; I have for some years past.

Q. After the election in the fall of 1870, and before the meeting of your legislature, were you accustomed to be in Little Rock?—A. I was there frequently, and I was there from the meeting of the legislature until about the last of February or first of March, when I started to come here to the spring session of Congress. I left there then. I was there from the first of January until that time.

Q. You were a member of the State senate after your election to Congress?—A. Yes, sir; I was elected for four years; two years of my term had not expired.

Q. You say that you were a member of the committee on elections in the Arkansas senate?—A. I was a member of the senate committee on elections.

Q. Did the question of the validity of those votes come before you in that committee? Was it considered by that committee?—A. That is the way I remember it. The question came up between two contestants for a seat in the senate.

Q. Involving the validity of these same returns?—A. The same thing. The district they were representing, or claimed to represent, was the very one in which this trouble occurred at the ballot-box—the tenth assembly district.

Q. Do you know whether this certificate was issued before or after the decision of the supreme court and the determination of the committees of the two houses?—A. I do not know. I have heard that it was not issued until afterward. I do not know how the fact is.

Q. You may state what you know, if anything, as to Governor Clayton's connection with railroad bonds, and whether you know of any transactions in those bonds leading to or connected with his election to the Senate?—A. None in the world. I simply know that he was by the statutes of the State designated as one of three commissioners to award State aid under certain circumstances to railroad companies. As to any other transactions in connection with this affair or any other, I am not aware of them. I suppose that in his official capacity, perhaps, so far as his duty was as one of the commissioners, he awarded the bonds. I do not know how it was, but I suppose so.

Q. Do you know, or have you heard, from any well-authenticated source, of any corrupt combination between members of the Arkansas legislature by which they or any of them were to vote for Governor Clayton for Senator of the United States in consideration of his giving a certificate of election to General Edwards?—A. Not except what I referred to a moment ago. I heard it here in the House. I never heard it in Little Rock—never heard it until since this contest has been progressing in the House during the present session. I have heard it asserted there.

Q. Were you recognized at the time you were a member of the State senate as a friend of Governor Clayton or otherwise?—A. Ever since reconstruction—in fact ever since I knew General Clayton there as a good soldier—I have been his friend. I say that above-board. I do not

consider it any discredit to say that I was his friend from the time I knew him as a soldier.

Q. Was Mr. Mallory the chairman of the investigating committee on the part of the senate, of which committee you were a member?—A. No, sir.

Q. Where was he?—A. Mr. Mallory was in the senate; but the committee of which I spoke of my being a member was a separate committee on the part of the senate. The one with which Mr. Mallory was connected was a joint committee. He was a part of that portion of the joint committee raised by the Senate. I was not on that committee.

Q. What did they have two committees for?—A. They did not have two committees, unless you call a joint committee two committees.

Q. As I understand it, the committee on privileges and elections was one committee, and then there was a joint committee to investigate pretty much the same matter?—A. To investigate the whole subject of frauds. The general assembly considered it due them and the country, when such charges as to fraud had been made as were being circulated there, and that it was perhaps their duty to inquire into them, and they appointed this joint committee for that purpose; and especially so when there were contestants in both houses from this same district where the alleged frauds occurred. I suppose the house felt that, in order to ascertain the truth as nearly as they might, to do themselves justice and let the country and the State know what the facts were, the committee should be raised. I do not know what other motive they could have had.

By the CHAIRMAN:

Q. Was this joint committee composed of the house committee of elections, and the senate committee on elections?—A. No. As I remember, it was a separate committee entirely, raised entirely outside. I do not know but that I heard this remark made just prior to the raising of the joint committee, that the two committees who investigated the special cases that came before their separate houses might, from previous investigation, be somewhat prejudiced, and they seemed to be anxious to have the whole matter thoroughly investigated. I was very busy and not connected with that committee, and cannot say what all the motives were that prompted the two houses to raise those two committees, but that is what I supposed was the object.

Q. How were your committees appointed in the senate, by the presiding officer?—A. They were appointed by the president of the senate.

Q. The lieutenant-governor of the State?—A. Yes, sir.

Q. Was the lieutenant-governor, at the time these committees were appointed, understood to be in harmony with Governor Clayton politically or otherwise?—A. He was understood to be very much opposed to the governor. That is my impression.

Q. Can you tell whether the senate committee, as it was organized, and that made the report there, was composed, a majority of it, of the friends or enemies of Governor Clayton?—A. I do not remember at present who composed that portion of the committee that belonged to the house except one member, General Mallory. I have forgotten who the other members of the committee were.

Q. Was this joint committee appointed on the part of the senate by the presiding officer or elected by the senate?—A. I do not remember that. We had a right, under our rules, to elect committees if we chose to do so, and sometimes it was intimated in the senate to the president that the senate might see fit to exercise that prerogative.

Q. Did you understand that the joint committee of both houses was

raised for the purpose of determining seats in the legislature, or for the purpose of obtaining information for the future action of both houses in the way of legislation?—A. At the time that committee was raised, and during the time it was engaged in its labors, I never heard the question of Mr. Boles's and Mr. Edwards's claims to a certificate raised, that I know of. I do not remember that I ever heard it spoken of, and especially not in connection with the appointment of this joint committee.

Q. What I want to get at is, whether that committee was raised for the purpose of determining seats in the legislature in your house and in the lower house, or whether it was raised for the purpose of ascertaining a state of facts which was notorious, and which was alleged to exist?—A. That was rather my understanding, for the reason that there were election committees in each house, and I got the impression that it might have been for both purposes; but there was so much said about these frauds, they became so notorious and so much talked of, that I suppose the main motive of the legislature in raising the joint committee was to ascertain the facts.

Q. What do you know about the generally understood motive attributed to me for declining my first election to the United States Senate?—A. The motive that I understood was simply this: that the great body of the republican party at that time feared the accession of Mr. Johnson to the gubernatorial chair, and I know they had vehemently, during the canvass, requested Governor Clayton not to abandon that chair in favor of Mr. Johnson. I understood the motive was to avoid that contingency. I know there were quite a number of the senators who, during the winter, were much exercised about that thing. They believed, from a speech that Mr. Johnson had made previously, that he was in favor of what we call "Senterizing" Arkansas, and with the bulk of the republican party, for the time being, it made him very unpopular, and they were unwilling that Mr. Johnson should pass from the chair of lieutenant-governor to that of governor. I never knew of any other motive that Governor Clayton had for resigning. I heard him during the canvass previously—he and I having made several speeches together in my congressional district—pledge himself publicly to large crowds not to accept any position that would result in placing Mr. Johnson in the chair of governor. In fact, I made that demand upon Governor Clayton myself. I told him that I thought, considering the toils we had gone through there, having reconstructed Arkansas at the cost of everything, even the lives of a great many of our best friends, when we had an executive department of the State well organized, well managed, and well conducted, we ought to be careful how we passed it over into other hands. That was a common sentiment among the republican party as I understood it. I heard Governor Clayton make these pledges during the canvass; and if there was any other motive for his declining I was not aware of it.

Q. Who are the prominent "Brindle-tail" leaders in the State of Arkansas?—A. I believe Mr. Hodges is known as one among the most prominent; Mr. Brooks—I do not know whether I should excite any jealousy by discriminating between Mr. Brooks and Mr. Hodges, therefore I shall not say which of the two was the most prominent, but they were both regarded as prominent men in that faction.

Q. Who else?—A. I understood Mr. Catterson, Mr. Whipple, perhaps Mr. Rice.

Q. What Mr. Rice?—A. Milton Rice, of Little Rock, who resides there; and it was understood that his brother, the senator, B. F. Rice, was also. I believe that composed the bulk of what was known as the

leading "Brindle-tails" at Little Rock; in fact I never heard of more than ten or fifteen of them about the city.

Q. Did they act together?—A. As well as I remember, they did. I think they voted together on the vote for impeachment. I do not know whether the democracy acted unanimously or whether every man claiming to be a democrat voted with them or not, but that was the talk: that it was a combination of that sort.

Q. It has been charged that the senate absconded to prevent articles of impeachment against me being prosecuted. I desire to know whether, if the senate did leave, it left for that purpose, or whether it was for the purpose of preventing a temporary suspension by which the lieutenant-governor would be installed into office, and have the privilege of appointing a chief justice, who was also impeached, to try his own case?—A. My understanding was this, that the republican senators were bitterly opposed to Lieutenant-Governor Johnson's occupying the governor's chair even for one minute; and, under the law, as some of them understood it, when the articles of impeachment were presented and the secretary of the senate issued a subpœna, or a notice, upon the governor, thereupon he might, by possibility, under our laws, be suspended; and that, if the trial only lasted one hour on the articles of impeachment, Governor Johnson would be governor of Arkansas that long; and whether he proposed, during that time, to organize, or issue a proclamation to organize, a democratic militia and make a raid upon the State government, was a question with the senators I talked with.

Q. Was there not a case pending against him at that time in the nature of a *quo warranto?*—A. There was, as I understood, in the supreme court.

Q. If I had been suspended, would not Lieutenant-Governor Johnson have naturally succeeded me as governor?—A. As I understand our laws, he would, as a matter of course.

Q. In that case would he not have had the power to appoint a special chief justice in the place of the chief justice who was impeached also at the same time I was?—A. I understood he would from the fact that the governor had a right to appoint a chief justice. I supposed, as a matter of course, he would.

Q. That special chief justice would have been authorized to try his case?—A. I think so.

Q. Did not the senators, as soon as that case was disposed of, return to their seats in the senate?—A. I think so.

Q. Was not the whole object of the quorum being broken by the absent senators to prevent the lieutenant-governor getting temporarily into the governor's chair, whereby he might have appointed a special chief justice to try his own case?—A. That was, perhaps, a part of the motive; and then I heard this idea expressed: that violence was threatened upon the State government, and Mr. Johnson only wanted possession of the executive chair long enough to write a proclamation and call out the militia to sustain himself. That was partly, as I understood it, among senators, an incentive; that until the whole question was settled on its merits, they wanted to avoid putting Mr. Johnson in the chair, even for one hour, and, of course, they wanted to see the *quo warranto* case disposed of.

Q. When a quorum was obtained in the senate, was there not a disposition upon the part of the senators, so far as you were able to know, to investigate everything that was charged against me, and to do it with the utmost promptness?—A. That is what I understood. I had just left for Washington when the investigation took place. I heard senator

previous to that time associating with me say they were anxious for a thorough investigation.

By the CHAIRMAN:

Q. I wish to ask you a question, Mr. Snyder. I do not understand distinctly whether you were a member of the senate at the time the articles of impeachment were preferred or not.—A. I was a member of the senate at the time the house passed them, but before the trial came on it became necessary for me to start for Washington to get here before the 4th of March.

Q. Were you there at the time the quorum of the senate was broken?—A. Yes, sir; I was there then.

WASHINGTON, *March* 7, 1872.

Hon. O. P. SNYDER recalled.

Cross-examined by Mr. BARNES:

Question. Are you by profession a lawyer?—Answer. I am, sir.

Q. You stated in your evidence that you spent about half your time at Little Rock. Do you mean to be understood by that that you were at Little Rock during the canvass of 1870, prior to the November election?—A. I was there frequently.

Q. During the canvass of 1870?—A. I was there during the canvass; perhaps not so much during that period as other periods. I will state that I was there during the canvass of 1870.

Q. How long before the November election were you a candidate for Congress?—A. I think the convention at which I was nominated was held in August.

Q. Did you accept at once the nomination and enter upon your canvass?—A. I accepted the nomination. I do not know whether I entered upon the canvass at once or not.

Q. Were you at Little Rock after you commenced your canvass until the election was over?—A. I was.

Q. How often?—A. I remember being there once, and I might have been there oftener.

Q. How long did you remain?—A. I do not remember.

Q. To the best of your recollection?—A. My stay was short.

Q. Have you any distinct recollection that you were at Little Rock but once before the election, after you became a candidate for Congress?—A. No, sir; I do not remember that I have.

Q. Where were you at the November election, 1870?—A. I was in Pine Bluff.

Q. Where were you for fifteen days prior to that election?—A. I am not able to tell you.

Q. Were you not engaged actively in your canvass in your congressional district?—A. Our canvass terminated at Pine Bluff some time in October, as well as I remember. That was the last discussion that I and my antagonist had. It was some time in October, as well as I remember; some time before the election. I do not remember what day of the month it was.

Q. Who was your antagonist or opponent?—A. Mr. Rogers.

Q. What Rogers?—A. A. A. C. Rogers.

Q. Were you on the Mallory committee in the senate?—A. I do not know that we had any such committee in the senate. I do not think

the Mallory committee is on the list of our committees. We have com mittees on appropriations——

Q. What committee, then, were you upon to investigate election and election frauds?—A. I was on the committee on elections—th senate committee.

Q. Was Mallory on the committee with you?—A. I think not, a well as I remember.

Q. You remember what is called the Mallory report, do you not— joint report made to the senate by Mallory?—A. Yes; I remember c Mr. Mallory making a report. I do not know what it is called. I suj posed it was called a report of the joint committee.

Q. Were you upon that committee?—A. I was not.

Q. Who, besides yourself, were upon the joint committee?—A. I wa not on the joint committee.

Q. Who constituted your committee besides yourself?—A. Wha committee?

Q. The committee on elections, to which you referred in your exam nation-in-chief?—A. I remember, I think, Mr. Hadley, Mr. Young; an really I do not remember the other members of the committee; an myself.

Q. When was that committee appointed?—A. It was appointe about the time all the other committees were, shortly after the organ zation of the senate, I suppose. I do not remember the appointmei of that committee.

Q. Who was the chairman of your committee?—A. I would stat that, as well as I remember, there is a published list of all the standin committees, and I had no occasion to charge my memory with th names of the parties composing those committees.

Q. What was the object of the investigation of your committee?—A I would be glad if the gentleman would indicate the committee to whic he refers.

Q. I am talking about the election committee that you were upo and nothing else.—A. The general object of committees on election, suppose, is to inquire into the eligibility of members to seats upon th floor in any legislative body, and if we had any different object tha that I was not aware of it.

Q. Did you not state, in your examination-in-chief, that your commi tee had in charge a contest from the tenth district for senator?—A. think it probable I did say that. It has been six weeks since I testified

Q. Is it not the fact that you did have such a contest in charge?—A We did.

Q. What parties were the contestant and the contestee?—A. I thin there were two cases.

Q. From the tenth district?—A. No, sir; not from the tenth.

Q. I am speaking of the tenth district.—A. I do not know who th contestant and who the contestee was, but I know who the parties co testant were—Mr. Brooks and Mr. Riley.

Q. Was Brooks ever before your committee?—A. I do not remembe whether he was or not.

Q. Do you not recollect the fact that he never was before your con mittee?—A. I cannot state positively.

Q. Give your best recollection. Do you not know it is the truth tha Joseph Brooks was never before your committee?—A. I could not stat that.

Q. Is it not your best recollection that he was not there?—A. I ca

not call to mind any particular instance where he was before the committee.

Q. Do you not know the fact that Brooks was neither before your committee in person nor by counsel?—A. No, sir; I cannot state that positively. It has been a long time ago, and I had no reasons for charging my memory with those things.

Q. What is your recollection?—A. Just what I stated.

Q. What did you state?—A. I am not prepared to say that he was, or I am not prepared to say that he was not.

Q. Was Riley there either in person or by counsel?—A. I do not remember that even.

Q. Is it not the truth that neither of them was represented in person or by counsel?—A. If the chairman please, I have made my answer to those questions.

Q. I have never asked you the question before. I ask the question directly, if you do not know the fact to be that neither Brooks nor Riley was ever present either in person or by counsel?—A. I do not; they may or may not have been.

Q. Do you not know the fact to be that there was no witness introduced before that committee in that case? If so, name the man.—A. That is a matter that I do not remember, either. I never had any reason for charging my memory with the proceedings of that committee had more than a year ago.

Q. Have you any recollection of any person being before you as a witness in that case?—A. I do not, at present.

Q. You stated in your examination-in-chief that you knew nothing about any bargain on the part of Governor Clayton and others to issue the certificate to Edwards, but you frequently heard the matter canvassed by persons or parties about the State-house during the session of the legislature, how the governor could determine the question between Edwards and Boles. Tell us who you heard canvass these matters about the State-house.—A. It was common talk. I would not undertake to try to remember the persons. I talked to perhaps five hundred.

Q. Name one man out of the five hundred.—A. I do not know that there were five hundred; I do not know that there were ten.

Q. Name one.—A. I shall not attempt to do that.

Q. Did you ever hear any person canvass the matter about the State-house, except the friends of Senator Clayton?—A. As a matter of course, unless I remembered the parties, I would not or could not answer that question. It is known that this matter was talked of a great deal in Little Rock and around the State-house and about the State-house. I remember the fact that it was frequently spoken of.

Q. You stated in your examination-in-chief "It became a question in the minds of a good many, in the absence of any direct statute on that subject, to direct the governor how he was to certify"—the matter between Edwards and Boles. How and from whom did you learn that fact?—A. You say I said there it was a question in the minds of many?

Q. Yes.—A. It was a question in my own mind for one.

Q. Did you say that Governor Clayton did not issue the certificate of Edwards until after those reports were both made?—A. That is my memory of the matter. As I remember, the committee of which I was a member had made their report, and also the decision of the supreme court had been rendered before any certificate was issued. As I stated in my testimony there, I do not know the date.

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Q. What did you state?—A. I am not prepared to say that he was, or I am not prepared to say that he was not.

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Q. Do you mean to say that both committees referred to by you in

your examination in chief had made their reports, and the decision of the supreme court referred to by you had been rendered before Governor Clayton issued the certificate of election to Edwards?—A. That was my understanding at the time.

Q. I will ask you now, upon reflection, if you do not know the fact that one of those reports was made after the certificate to Edwards was issued, and after Governor Clayton was elected the second time?—A. I do not know, sir.

Q. Do you not know the fact that the report of one of these committees was not made until after the date of Edwards's certificate and after the second election of Governor Clayton?—A. No, sir; I do not. I do not know the date of Mr. Edwards's certificate. I never saw his certificate.

Q. Do you know the date of the reports?—A. I do not know the date of the reports. I know about the time that the committee of which I was a member reported.

Q. (Producing the journal.) Look at that, and see if you do not remember, when you look at it, that this report was not made till after?—A. (After examining the journal.) This is the report of the house. I was not a member of the house.

Q. This joint committee was a committee raised on the part of the senate and house, was it not?—A. Yes, sir.

Q. State by reference to the senate journal the date of that report.

(The committee overruled the question.)

Q. In your examination-in-chief this question was propounded to you: "Q. Did the question of the validity of those votes come before you in that committee? Was it considered by that committee?—A. That is the way I remember it. The question came up between two contestants for a seat in the senate." Do you still adhere to the answer given to the question recited?—A. I still remember it in that way.

Q. What witnesses or evidence were before you touching that point?—A. I will state that I have answered that question before. As a matter of course, if there was a contest, that contest had to grow out of something, and, as we understood it, it was the management of the elections in the tenth assembly district, and, as a matter of course, if we did not investigate that we did not investigate anything.

Q. Did you investigate anything?—A. I have before stated that the committee made their report upon the records that they had at their command, and also possibly upon oral evidence, and I take it for granted that the committee of the senate on elections, appointed to investigate certain subjects, did investigate them before they reported.

Q. Although you say you take it for granted the committee on elections in the senate did investigate matters before them, have you any recollection of the fact that any witness was sworn and examined before you in the contested election case of Riley and Brooks?—A. I stated before that I did not.

Q. Do you not recollect the fact that there was no formal contest of that case before your committee?—A. "Formal contest" is a phrase; I do not know what definition you mean to imply.

Q. What time did you leave Little Rock for the city of Washington?—A. As well as I remember, I left there about the 25th of February.

By Mr. NORWOOD:

Q. You were one of the old senators who held over, were you not?—A. Yes, sir; I was. Two years of my term were unexpired when I ran for Congress.

Q. After your election to Congress you were still in the senate, and that was the way you came on this committee?—A. Still in the senate.

Q. I wanted to know, because I could not explain in any other way that you were still in the senate.—A. On starting for Washington I resigned my position in the senate.

By Mr. BARNES:

Q. You tendered your resignation, I suppose, in the senate, and it was published in the journal?—A. I suppose so; I never looked to see.

Q. How long after the date of your resignation was it before you started; immediately?—A. Very soon.

Q. Was it the same day?—A. It may have been the day after, or it may have been the same day; I do not remember exactly. I know it was not long after the date of the resignation.

Q. Were you in the senate at the time articles of impeachment were preferred against Governor Clayton and Chief Justice John McClure?—A. I was, I think.

Q. Are you one of the senators who absconded from the senate after the presentation of those articles, or about that time?—A. I was absent from the senate about that time.

Q. Did you not abscond from the senate?—A. I was not in the senate; the gentleman can call it absconding or whatever he pleases. I was absent from the senate. I submit to the chairman whether that is not sufficient answer.

By Mr. NORWOOD:

Q. Were you one of the members of the senate who left for the purpose of preventing a quorum being present?—A. I was a member at that time.

Q. Did you leave it for that purpose?—A. I was absent from the senate at the same time that others were whom I have heard charged with breaking the quorum.

Q. What was your motive in being absent?—A. As I have before stated, I believe in my examination-in-chief, a quorum in the senate was not desired on the part of the senate just at that time.

Q. In other words, you were one of those who left to prevent a quorum?—A. I was absent at the same time they were.

Q. Can you answer my question directly or not? Were you not one of those who left for the purpose of preventing a quorum being present in the senate?—A. I was; at least that was my motive in leaving—part of my motive.

By Mr. BARNES:

Q. I will ask you if you did not leave the senate on the 17th of February, 1871?—A. I do not remember about that.

Q. Do you not remember that you left it on the 18th day of February 1871?—A. I do not remember that, either.

Q. Do you remember the day you did leave it?—A. I remember the time as a matter of fact, but the day of the month, or day of the week, I do not remember.

Q. How many days were you absent from the senate?—A. I do not remember, exactly; it seems to me about a week.

Q. Who were with you?—A. The rest of the senators who were what you called absconding.

Q. Name them, as near as you can.—A. Senators Young, Hemingway, Mallory, White—no, White was not there.

Q. You do not name White, then?—A. Not at Oliver's; Mr. Torrens, Mr. Beldin, and Mr. Rushing were there.

Q. Who else; have you mentioned Hadley?—A. Yes, Hadley; I had forgotten Hadley.

Q. You have not mentioned Sarber?—A. Sarber was there.

Q. Was Martin there?—A. Yes, Martin was there.

Q. Gallagher?—A. Yes.

Q. Howard?—A. Yes.

Q. Which Howard; I believe there was but one in the senate?—A. There was but one in the senate; Thomas, I think; I think Thomas was there.

Q. Where did you first go after leaving the senate?—A. We went out about a mile from Little Rock, southwest.

Q. Where to?—A. No particular place.

Q. Did you not go into the brush?—A. It is impossible to get out that way half a mile without getting into the brush.

Q. Do you mean to say you did go into the brush?—A. I decline to answer that question.

Mr. BARNES. I insist.

The WITNESS. I will state, if it is any accommodation, that we were in the brush, because we could not have gone in that direction without getting into the brush.

Q. Were you at any house?—A. Yes; we were at a house.

Q. What house?—A. I do not know whose house it was; it was not occupied. I understood it belonged to Judge Bowen once.

Q. Judge Thomas Bowen, one of the counsel in this case?—A. Yes, sir.

Q. What time did you go there, and how long did you remain?—A. We went there at night, and staid all night.

Q. How many nights did you stay at Bowen's house?—A. One.

Q. Is it the house now owned by Milton L. Rice?—A. I do not know who owns it.

Q. Who sent you your food that night and day, when you were in the brush?—A. I do not know who sent it. We got it and enjoyed it very much.

Q. Who brought it for you?—A. We did not know; we found it in waiting for us.

Q. Do you not know the fact that Mrs. Senator Clayton and Mrs. Hadley sent it to you?—A. I do not.

Q. And Mrs. Bowen?—A. I do not know that. I heard that they did. I never saw it.

Q. Was there any dispute about the fact that you were fed and provided for from Senator Clayton's, Judge Bowen's, and Governor Hadley's?—A. We did not dispute while we were out; we got along harmoniously.

Q. Was it not understood between you that you were fed from those three places?—A. I do not know that that matter was discussed at all.

Q. Do you not know that it is the fact that you were fed and supplied with food and drink from Governor Hadley's, Senator Clayton's, and Judge Bowen's, one of his counsel here?—A. I do not.

Q. Have you not every reason to believe that you were?—A. I thought the gentleman wanted me to state what I knew.

Mr. BARNES. I will digress a little upon that.

Mr. McCLURE. I insist the witness shall not answer it.

Q. (By Mr. BARNES.) Who visited you during that time?—A. At what place?

Q. At Bowen's house, while you were in the brush, and while you were at Oliver's?—A. Nobody visited us at Bowen's house.

Q. Did not Ryan come to see you?—A. He came to us, but not at the house.

Q. Did any person visit you while you were at Bowen's house?—A. Nobody that I remember.

Q. Nobody at all?—A. No, sir.

Q. Did you find food and drink in Bowen's house when you got there?—A. We found the food and I believe found some drink, but it was not very ardent.

Q. Did you find a good supply of food there?—A. Plenty of it; fine baked turkey.

Q. What else did you find?—A. O, I do not know.

The CHAIRMAN. I do not see how it is possible that it is relevant to find out what they had to eat.

WASHINGTON, *March* 8, 1872.

Hon. O. P. SNYDER'S cross-examination continued.

Question. (By Mr. BARNES.) Where did Ryan come to you?—Answer He came to us in the vicinity of this house that I spoke of.

Q. When you were out in the brush?—A. Yes, we were in the brush; I suppose you can call it that.

Q. Who else visited you?—A. Nobody, that I remember.

Q. I am instructed to ask you if Captain Ed. Webster, a clerk for a State official, did not visit you while you were absent?—A. I think not.

Q. Did not Barton, the secretary of Governor Clayton, at that time visit you?—A. He did not, that I saw.

Q. Did he not visit you at Oliver's house or Bowen's, or some other place during your absence?—A. I think not. I do not think he visited us at all.

Q. Did not Danforth, the son-in-law of Hadley, visit you?—A. I do not think he did.

Q. Did not Senator Clayton visit you himself?—A. I think he was at Colonel Oliver's once while we were there.

Q. Did he not visit you while you were away from any house?—A. No, sir.

Q. Did he not communicate with you?—A. I do not know that he did, unless it was through Mr. Ryan.

Q. Are you satisfied that he communicated with you through Mr. Ryan?—A. The only mission that Mr. Ryan had, that I now remember, was to take charge of a horse that we had in the company, to take it back.

Q. Whose horse was that?—A. It was a horse that I rode myself.

Q. Did it belong to Clayton, or Bowen, or Hadley, or any of the party?—A. I think it was from the livery-stable.

Q. Explain to the committee who Ryan was; what position he held at that time?—A. I do not know that he held any official position.

Q. Was he not a sergeant-at-arms or door-keeper of the house or senate?—A. I think, perhaps, he was, since you mention it; either door-keeper or assistant, or something of that sort.

Q. Was it of the senate, you think?—A. I do not remember. I remember there was a proposition at one time for some of the door-

democratic members of the legislature, at his (Clayton's) first election, voted for him as Senator. You gave your opinion in reference to their support of him. Now please state what you really know, of your own personal knowledge, in reference to the democrats voting for Clayton at the time named by you.—A. Of my personal knowledge I cannot say that I know anything. I believe I gave an opinion on that subject.

Q. Is it not true that your statements in answer to the questions propounded to you by Senator Clayton were based in the main upon mere rumor, belief, understanding, and report, without any personal knowledge of your own?—A. Some of them were; I do not know what ones you refer to.

Q. I will state the question again. Is it not true that your statements in answer to the questions propounded to you by Senator Clayton were based in the main upon mere rumor, belief, understanding, and reports, without any personal knowledge of your own?—A. I said before that some of them were. I do not remember how many questions he asked me, and do not remember all the questions he did ask. I know that some of them were, and so stated.

By Mr. BOWEN:

Q. At what time did yourself and Governor Clayton first apply for the removal of Catterson and Whipple; how long before Clayton's indictment?—A. I do not know the date of Mr. Clayton's indictment.

Q. About what time did you first apply for the removal of these persons?—A. I was with Mr. Clayton at the Executive Mansion some time about the first of last April, when these questions were discussed with the President. It was between the 1st and 10th of April.

Q. That is when you first applied for their removal?—A. I think it was.

WASHINGTON, *January* 26, 1872.

CHARLES W. TANKERSLEY sworn and examined.

The CHAIRMAN. As you have called this witness, Mr. Clayton, and are aware what you expect to prove by him, you may commence the investigation.

By Mr. BOWEN:

Q. What position did you hold in the last legislature of Arkansas?—A. I was speaker of the house.

Q. Be kind enough to detail the occurrences that happened in that house in relation to the election of Senator Clayton, his impeachment as governor, and the impeachment of Judge McClure, and the circumstances attending these matters.

The CHAIRMAN. Let me suggest here, that as far as possible you confine yourself to those matters which are not of record, for the record itself will speak with reference to them. I say this for the purpose of abridging the examination as much as possible.

The WITNESS. I will state that, previous to the action of the legislature in the election of United States Senator, a great many of Governor Clayton's friends felt very solicitous about his election inasmuch as they were apprehensive as to his successor, who was then the lieutenant-governor, and that in caucus, I think probably three days before the election came off, Governor Clayton (I suppose being apprehensive of this solicitude) pledged to his friends that if he was elected to the Senate he

meant in no event to resign the position of governor so as to leave that position in the hands of the then lieutenant-governor or any other unsatisfactory person. That promise was given to me together with a great portion of his friends, in fact the whole of them. I am satisfied without that promise Governor Clayton could not have been elected to the Senate. So far as I am concerned I know I should not have supported him. The election came off, and I believe, as the journal of the house will indicate, he received the whole support of the caucus to which he had pledged himself in that particular, as well as a few democratic votes. As to why some of the democrats voted for him—I suppose the smaller portion of the democracy of the house—it was generally understood to be for the purpose of getting rid of him. In fact, one of the members of the house, Mr. Cate, who voted for Governor Clayton for Senator, expressed to me himself that it was the general desire of the democracy in the State that there should be a change in the administration; that they thought it would be productive of future harmony among the different elements of the State. He impressed me, however, with the belief that his idea was that Governor Johnson would be a more acceptable individual for the purpose of accomplishing these results.

After Governor Clayton's first election, there were numerous charges preferred against him of the character of those the committee is now investigating. That, however, was not done until the public had been impressed with the idea that Governor Clayton would not resign as governor. I could explain myself better by stating that after Governor Clayton's first election to the Senate, there was a proceeding instituted in the supreme court in the nature of *quo warranto*, for the purpose of ousting Lieutenant-Governor Johnson. The grounds of the proceeding were that Lieutenant-Governor Johnson had not qualified as lieutenant-governor within the time prescribed in the constitution of the State. It was generally believed that if those grounds were proven, his disqualification was evident. It was generally understood that the grounds would be proved. When that proceeding was instituted there naturally arose a counter feeling, and sometimes it was quite intense, against Governor Clayton. When the decision of the supreme court was rendered in favor of Lieutenant-Governor Johnson, it became manifest, at least to the friends of Governor Clayton, (and I believe it was publicly known,) that Governor Clayton would resign the position of Senator. He called together his friends to whom he had previously pledged himself. I was present among the rest. He then and there openly resigned the position of Senator to which he had been elected, because, as he stated, the Supreme Court had decided in favor of Lieutenant-Governor Johnson, and of course he would be the legal successor to him; and, inasmuch as he had pledged his friends that he would not leave the State in the hands of Lieutenant Governor Johnson or any other unacceptable person, he resigned the position of Senator. I believe the next day, or the day after, his resignation was tendered to both houses of the legislature. Thereupon the feeling against him grew more and more intense in both branches of the legislature. These charges now preferred against him were agitated at length, and he was impeached as governor. So much had been said about these charges that some persons who had previously voted for him as Senator voted for his impeachment. By the resolution the house adopted the speaker was authorized to appoint managers of impeachment. I will state that, without consultation with Governor Clayton, or without his suggestion, or without consultation with any other person, or without the sugges-

tion of any other person, I appointed three, as I conceived, of the ablest democratic lawyers in the house to investigate the charges and to manage the impeachment against him. I did this knowing myself that one of the charges preferred against him was utterly false, and believing the rest to stand in the same condition. I knew that that appointment would be satisfactory to him. I believed so, at any rate, and I acted upon my belief.

Those parties proceeded with the investigation of the charges then preferred against him, and, I believe, brought in a report that the charges could not be substantiated; asked that they be withdrawn; and asked that they be discharged from the further consideration of the subject. I believe, in that connection, that some stress may have been laid upon the absconding of the senate. I know very little about caucuses that may have been held in that body; and, in fact, am unable to state what motives induced them to absent themselves. I can only state as to the general impression and general understanding, that it was for the purpose of preventing Lieutenant-Governor Johnson from acting as governor during any time.

When the senate absented themselves, the feeling of a certain element in the house of representatives, as I said before, was very intense, and those individuals who were considered the head and front of the procedures against Governor Clayton, certainly by their conduct, or certainly by their words and declarations, if not by their conduct, indicated that revolutionary results and proceedings were to be apprehended. I so understood it in the house when the most revolutionary declarations were uttered on the floor of that body. The object of the senators absenting themselves, as I understood, (together with an order made by one of the supreme judges, Justice McClure, restraining Lieutenant-Governor Johnson from exercising the duties and office of governor,) was for the purpose of preventing any revolutionary proceeding. I so considered it, and I believed that was the general understanding. They thought possibly that during the pendency of this *quo warranto* proceeding, some revolutionary proceeding would be attempted, as men had expressed themselves on the floors of both bodies of the legislature, that a mere resolution passed by the house of impeachment against a public officer worked his suspension under the constitution. It was claimed by Governor Clayton, and by his friends, that the passage of a resolution or motion by the house of representatives could not work a suspension, until the senate had been apprised of the passage of the resolution and the proceedings instituted in the house, and the governor notified by the secretary of state, who was the legally constituted secretary of the senate, of the nature of those proceedings. He claimed that; the other side claimed the contrary, and so expressed themselves on the floors of both bodies of the legislature. The object of the senate absenting themselves was for the purpose of preventing a conflict of opinions in that particular, one side claiming that Lieutenant-Governor Johnson would have the right under the constitution, under those opinions, of appointing a chief justice in place of Judge McClure, against whom there had also been instituted a proceeding of impeachment, for the purpose of favoring the case of *quo warranto*, which was then pending before the court. The managers of impeachment that the house had appointed through the speaker, brought in their report of their investigation and submitted it, stating in that report, as indicated by the journal of the house, that they could find no evidence to substantiate the charges which had been preferred against Governor Clayton, and asked that they be withdrawn. The vote was taken on that request,

and the house by a very large majority withdrew those articles of impeachment, and discharged the committee from the further consideration of that subject.

I will state just here (as it is probably a subject that may not be understood,) that there were two boards of managers appointed; the first were appointed in the resolution of impeachment that passed the house of representatives. They came in and asked to be discharged after some weeks of investigation, because the senate, sitting as a court of impeachment, having the constitutional power and authority to fix their own rules for the conducting of impeachment, those rules did not suit them. They came to the house expressing their opposition to the rules fixed by the senate for the government of the impeachment trial. I believe that is so expressed in their report on the journal of the house. Thereupon these other managers were appointed to whom I have previously alluded.

By the CHAIRMAN:

Q. The managers who asked to be dicsharged, because of dissatisfaction with the rules of the senate, were the first managers; they did not take any action at all?—A. That was it. The other managers I appointed.

By Mr. BOWEN:

Q. Did they not also claim that they had gone to the bar of the senate, when they attempted to do so, and found no quorum?—A. That was my understanding. After action was taken on this last subject by the house on the withdrawal of the articles of impeachment the time came on for the election of Senator again, Governor Clayton meanwhile having tendered his resignation of the first election. I believe that Governor Clayton was re-elected to the Senate by the house of representatives by quite a large majority. I am unable to state now how large; the journal of the house will show. But there were a great many persons who voted for his re-election to the Senate who had voted for his impeachment. The reasons that those individuals gave on the floor of the house for voting for his impeachment were that there had been much said about these charges and they felt it a duty to themselves—felt it a duty to the State—felt it a duty to the governor, if these charges be true, that they be investigated. They voted for impeachment on these grounds, and these alone. I will state here again that that impeachment was put through under the previous question on a mere motion, while the rules of the house require that at least a resolution shall lie over one day; it was put through on mere motion. A great many of these individuals, after the articles had been withdrawn, and the report of the committee appointed by the house had been shown to the house, voted for his re-election to the Senate. I believe that is all I know in reference to the general matters indicated.

By Mr. BOWEN:

Q. Have you examined the evidence of Mr. Whipple which was given before the Ku-Klux Committee?—A. I have read it.

Q. I will call your attention to this portion of that evidence, on which I wish to base a question: "Q. What was the motive of the governor in giving this certificate to a man who was not elected?" Speaking of the Edwards-Boles matter; and he answers: "A. Of course it is very hard to tell what his motive was. It is generally understood that it was done in pursuance of a trade." What do you know about that?—A. It is very difficult in my mind to really understand that. The repub-

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licans in my county, Clark County, were generally known and recognized as the political friends of Governor Clayton. In Clark County we voted for Boles. Boles received over 500 majority in that county. There were judges and clerks of election who were indicted in that county for frauds perpetrated in that election. Whether there were frauds or not, I must say that I cannot state. There may have been fraud; there may not have been fraud. I am unable to state as to whether there was or not Certainly I should be induced to believe, if parties were indicted by an impartial grand jury for frauds in elections, that there were frauds; that would be the natural supposition. But that county gave 500 majority for Boles. I know that what little influence I could exert was exerted in his behalf; and I am satisfied that I heard Governor Clayton repeatedly declare that it became the duty of the republicans of that district to support Boles. These declarations were made to me repeatedly.

Q. When was that?—A. Before the election; and I believe you were present at a meeting at Governor Clayton's house. There were two republican candidates, Judge Boles and Judge Searle. Our friends in Clark County were partisans of Judge Searle; he lived in that county, and they favored his nomination to Congress. There were two conventions held; both nominated, and each nominee claimed to be the nominee of the republican party. On one occasion I was written to or received a message, and came to Little Rock to a meeting in Governor Clayton's house. I believe you were present; I think so, at any rate. I know there were a great many of us present from different portions of the district; and the majority of that meeting openly opposed the withdrawal of Judge Searle in favor of Judge Boles. They had their reasons for so doing. I was one of the number that opposed it. I know that Governor Clayton openly, then and there, considered it advisable that Searle should be withdrawn in favor of Boles. It was then and there agreed upon that Judge Searle should withdraw, at Governor Clayton's suggestion, in favor of Boles. He did withdraw, and the friends of Governor Clayton, I know so far as Clark County is concerned, unanimously gave their support to Judge Boles. The result was that Judge Boles received 503 or 504 majority in that county. I do not know anything about any trade in the matter of issuing a certificate to Judge Edwards. I heard Governor Clayton say that he would not give the certificate to any one until the legislature had taken action on the Pulaski County frauds and developed them; that he should be guided entirely by the conduct of the legislature.

Q. Was it his position, as a general thing, all the way through, that he would be guided by the action of the supreme court and legislature, and would not act until he had their decision?—A. That was my understanding all the way through.

Q. Referring to the evidence of Whipple once more, I read these questions and answers: "Q. What was the trade?—A. That the democratic members of the legislature should support him for the Senate of the United States. Q. Did they do it?—A. Yes, sir; they did. Q. And the governor carried out his part of the bargain?—A. Yes, sir; it seems very plain that he did that." Now I ask you if you can take the list of members of the legislature, and point out those who were republicans and those who were democrats?—A. I can do it.

Q. From memory?—A. I can.

Q. You notice that Mr. Whipple says that the democrats voted for Mr. Clayton. Be kind enough to state who those men were from the

Pulaski district, and how many of them voted for Mr. Clayton.—A. I find but one—Mr. House. I see also that one democratic member, Mr. Whittemore, from that district, was absent. The other, Mr. Robert A. Howard, voted for Mr. Dunham.

Q. State how many democrats in the house voted for Governor Clayton altogether at the first election?—A. I think I see fourteen in the house.

Q. How many republicans?—A. Probably some whom I class as democrats were considered liberal republicans at the time.

Q. Now count those members who were known as republicans and voted for Mr. Clayton?—A. Fifty-seven in the house.

Q. What was the total number of votes in the house and the number necessary to a choice?—A. Seventy-eight votes altogether; forty necessary to a choice. Governor Clayton received seventy-one.

Q. I will call your attention to another portion of Mr. Whipple's testimony: "Q. In whose interest were these frauds perpetrated?—A. In the interest of what was known as the Clayton party. Q. For the purpose of electing men who would support him for Senator of the United States?—A. Yes, sir; and in many cases to defeat the republican candidates. Q. Who would not vote for him as Senator?—A. Who would not pledge themselves to support him for the United States Senate. That was the case in Pulaski County, where the Clayton vote was understood to have been thrown to secure the election of democratic candidates for the legislature as against the republican candidates, because the former were expected to support Clayton and the latter were not. Q. Did they support him?—A. They did support him; yes, sir; they voted for him for United States Senator." Please state how many of those democrats who were elected in Pulaski County voted for Mr. Clayton for the United States Senate?—A. I find but one.

Q. State specifically in regard to Pulaski County?—A. But one out of the whole number at the first election.

Q. After the declination, and when it came to the second election, how many democrats, if any, in the whole State, voted for Mr. Clayton as Senator?—A. I think but one.

Q. Who was that?—A. Mr. Scales, of Perry County. That is my impression. I can refresh my memory from the journal.

By the CHAIRMAN:

Q. Were there democrats or republicans elected from Clark County?—A. All republicans. They voted for the first election of Governor Clayton; they voted against his impeachment; they voted for his re-election

By Mr. BOWEN:

Q. Now turn to the first vote for United States Senator in the senate of Arkansas, and be kind enough to state how many democrats and how many republicans voted for Governor Clayton at that first election of Senator, and what the whole number of votes was.—A. I see the name of one democrat who voted for him then, Senator Riley.

Q. Do you know how he was elected?—A. I do not.

Q. Do you know whether he was elected as a democrat?—A. I think he was. He was so understood by republicans to be a democrat. I so considered him.

Q. Do you find among those names the name of any democrat from the Pulaski district who voted for Mr. Clayton?—A. I do not. I will state that at the last election of Senator, the democratic senator did not vote for him.

Q. At the last election in the senate, no democratic member of the senate voted for him?—A. I could not say that without refreshing my memory from the journal of the senate. I know the senator from the tenth district did not vote for him; he voted for Judge Wilshire. [Examining the senate journal.] I find that no democrat voted for Governor Clayton at the second election of United States Senator.

Q. Please look over the record of the second election in the house, and state whether or not any democrat in the house from any part of the State except Mr. Scales voted for Governor Clayton.—A. [Examining the house journal.] I find one here, Mr. Scales, the only one who was professedly a democrat. There was Thomas Wilson, who was considered by some a republican; probably I should do him injustice by considering him otherwise.

Q. You do not know as to Mr. Wilson's status?—A. I do not exactly. He is considered by some a republican. Mr. Scales is the only professed democrat whom I find to have voted for Governor Clayton.

By the CHAIRMAN:

Q. What were your relations with Governor Clayton at and about the time of his election to the Senate—friendly or otherwise?—A. Friendly.

Q. Were you on terms of intimate friendship?—A. Yes, sir.

Q. State what you know, if anything, of his action in connection with the issuing of railroad bonds. Did it have any influence in any way on his election to the Senate of the United States?—A. Not that I know of. I never heard that question raised at all until I read the evidence of Mr. Whipple. It may have been raised without my knowledge. I simply say that before I read the testimony of Mr. Whipple I never heard of it.

Q. Do you know of any conversation with him at or about the time of his election as to any arrangement, or agreement, or contract by which, in consideration of issuing a certificate to General Edwards, he was to receive support for the Senate?—A. I never heard of that until recently. I heard of it before reading the testimony of Mr. Whipple; but Governor Clayton repeatedly told me; I heard him in repeated conversations declare that he would not issue a certificate either to General Edwards or Judge Boles until the matter had been investigated by the legislature; and that his official conduct would depend entirely on the result of the legislative investigation. Governor Clayton repeatedly requested me, in conversations, to use my influence in Clark County for the election of Judge Boles.

WASHINGTON, *February* 7, 1872.

CHARLES W. TANKERSLEY recalled.

By Mr. BOWEN:

Question. Take the journal of the house of representatives of the legislature of Arkansas and read off the names, and say what were the politics of each member. First tell who were republicans, and then who were democrats.—Answer. The republicans were Mr. Padgett, Mr. Hawkins, Mr. Taylor, Mr. Cleland, Mr. Garner, Mr. Herring, Mr. Harris, Mr. Owen, Mr. Tygart, Mr. Thomas Wilson, Mr. Stevens, Mr. Grady, Mr. Adam Johnson, Mr. Haskins, Mr. Cohn, Mr. Ham, Mr. Pilkington, Mr. Good, Mr. Chamberlain, Mr. Hollibaugh, Mr. Mayo, Mr. Peck,

Mr. Barrow, Mr. Waters, Mr. Alexander, Mr. Wiley, Mr. Joslyn, Mr. Morgan, Mr. Espy, Mr. Kymes, Mr. Allen, Mr. Ellington, Mr. Orr, Mr. Barbour, Mr. Hazledine, Mr. Grey, Mr. Mason, Mr. Haddock, Mr. Tankersley, Mr. Wagner, Mr. Steele, Mr. Smith, Mr. Thompson, Mr. Wood, Mr. Jenkins, Mr. Fricks, Mr. Young, Mr. Prigmore, Mr. Clayton, Mr. Parker, Mr. Hale, Mr. Pope, Mr. Robinson, Mr. Preddy, Mr. Marr, Mr. Fulton, Mr. J. W. Harris, Mr. Webb.

Q. Now give the names of all the democrats.—A. Mr. Cate, Mr. Minor, Mr. Rozell, Mr. Meek, Mr. Glass, Mr. Harvey, Mr. Thornburg, Mr. Watson, Mr. Crump, Mr. Palmer, Mr. Wilson, Mr. Pittman, Mr. Pettigrew, Mr. Neal, Mr. Whittemore, Mr. Howard, Mr. House, Mr. Battle, Mr. Basden, Mr. McLendon, Mr. Harley, Mr. Scales.

Q. It has been shown in evidence that you were appointed superintendent of the penitentiary. State whether or not that was the result of any bargain with the then governor, now Senator Clayton, or in consideration of your vote in any way, directly or indirectly, for Governor Clayton for the position of United States Senator?—A. I did not receive it with any such understanding.

Q. Who appointed you?—A. Governor Hadley.

Q. Was it or was it not the result of an effort on your part after the senatorial election?—A. I do not think the bill was introduced until the latter part of the session of the legislature.

Q. At all events, you did not attempt to get the appointment until after the senatorial election?—A. I did not attempt it until after the adjournment of the legislature.

Q. Are you acquainted with Mr. E. A. Fulton, one of the members of the legislature you have named?—A. Yes, sir.

Cross-examined by Mr. BARNES:

Q. How long have you resided in the State of Arkansas?—A. Somewhat over three years.

Q. You had not been a member of the legislature of the State at any other time before your election as speaker, had you?—A. I had never been.

Q. Had you ever been a candidate for office before?—A. I never was.

Q. How long had you resided in the county of Clark, which you represented, before the election?—A. Three years.

Q. Had you resided all the time in Clark County?—A. From about three months after I came into the State I resided in Clark County.

Q. Where did you reside next before you came to Arkansas?—A. Stafford County, Virginia.

Q. Where were you born and raised?—A. In the State of Virginia.

Q. What is your real name?—A. Charles W. Tankersley.

Q. Have you not gone and been known by a different name?—A. I never have.

Q. Were you not both in the Confederate and Union Armies?—A. I was.

By Mr. BARNES:

Q. Which army did you first join?—A. The Federal Army. I was connected with the confederate army, but never joined it.

Q. Were you connected with the confederate army before you joined the Federal Army?—A. I was.

Q. In what capacity?—A. In a private, I expect.

Q. Do you not know?—A. I was considered a high private I guess, in the rear rank.

Q. Were you a regular private soldier in the confederate army?—A. I was recognized as a private soldier.

Q. How long did you remain?—A. About three months.

Q. What name did you assume then?—A. I was known as Charles W. Tankersley.

Q. How long did you remain in the confederate service?—A. About three months.

Q. When you joined the Federal service what name did you bear or assume?—A. Charles W. Caswell.

Q. What regiment and company did you belong to?—A. Company I, Twentieth Pennsylvania Cavalry?

Q. Who was the captain of your company?—A. Michael B. Strichler.

Q. Who was the colonel of your regiment?—A. John E. Wynkoop.

Q. Did you remain in that company to the end of your service in the Army?—A. To the end of the last service I did not.

Q. How long did you remain in that company?—A. You want to know how long I was a member of the company. I will state that I was on detached service after my re-enlistment; still I held connection with the company; I was known as an officer of the company.

Q. What office did you hold in the company?—A. Second lieutenant on re-enlistment. I was on detached service with the signal-corps.

Q. Where did you perform that detached service, and in what department or command of the Army?—A. In the middle military division, under Generals Sigel, Hunter, and Sheridan.

Q. Did you, during your service in the Federal Army, belong to any other company, regiment, command, or service?—A. I did not.

Q. Is it or not true that you were dismissed from the service of the Army?

Mr. McCLURE. I object to that. It is a matter of record if it is true.

The WITNESS. I am very willing to answer the question, and answer it in my own way. I stated before that I was on detached service. Captain O. H. Howard was my chief signal officer. During the Sheridan campaign in the Valley of Virginia a personal altercation arose between that captain and myself in reference to a horse that my men had captured, in which controversy he wanted to trade the horse. I refused to trade. He then wanted me to give him up. I refused to give him up. He preferred charges against me. This was about one week after I had been captured by rebel forces and had made my escape from them. He preferred charges against me for misappropriating public property—that is, in keeping possession of the horse which I refused to give up to him. On those charges I was dismissed from the service. My previous capture a week before that, and my narrow escape from my captors, I being pursued for four miles, naturally induced me to cultivate a desire to get out of the service. My chances were more than any other person in the Army, because in case of my capture certain death was the inevitable consequence. I took no grounds to disprove the charge or to have any different result than a dismissal. I returned to Philadelphia after my dismissal, and from that time to this I have never undertaken any steps to reverse that, although there have been a thousand chances offered to me and I could have done it beyond question. At the time, I was glad to get out of the service, because of my frequent chances of capture. My class of service at that particular time was of such a character that I was running more danger than probably any other member of the Army; my duties were always entirely outside of the lines of our forces, and that naturally led me to desire to get out

of the Army, and especially after I had been captured about a week before, and run a very narrow chance of death. That is my explanation.

Q. (By Mr. BARNES.) Where were you tried, and before whom?—A. I never was tried. I was dismissed by general order, not by a trial before a court-martial.

Q. Did you meet Governor Clayton at any time during your canvass for the legislature and before your election?—A. I met him frequently.

Q. You referred in your examination-in-chief to a conversation you had with him before his election to the Senate, in reference to his election to the Senate, and the removal of Lieutenant-Governor Johnson, and your support of him; where and when did that conversation occur?—A. I never made any such statement.

Q. Are you certain of it?—A. I am, or I would not say so. I made a statement of holding certain conversations with Governor Clayton in reference to the election of Boles.

Q. Did you not make a statement in your examination-in-chief that you had a conversation with Governor Clayton in reference to his election to the Senate and your supporting him, and the reasons that induced you to support him?—A. I did.

Q. When was that conversation?—A. Previous to his election to the Senate the first time.

Q. At what time and place?—A. I cannot give you the exact time. I think it was three or four days, probably a week, before his election.

Q. What was the exact conversation at that time?—A. I cannot give you the exact conversation.

Q. Well, the substance.—A. That he did not intend to accept the position of Senator unless there should be some one succeed him as governor who would be satisfactory to the republicans of the State. That was about the substance of it.

Q. Is it not true that at the time of the conversation named he agreed to get rid of or remove Johnson?—A. I did not state so.

Q. What is the fact in reference to it?—A. He never made any such statement to me.

Q. Is it not true that you have said that you would not have supported him for the Senate without his promising to remove Johnson, and that he could not have been elected unless he had made such an agreement?—A. It is not true. I never so stated. I stated this: That it is true that I said that I would never have supported him to allow Johnson to succeed him, and I say so now.

Q. Do you mean by that to be understood that you made an agreement with him to that effect?—A. I do not so mean.

Q. Who was present at the time of that conversation besides you two?—A. I do not now recollect. There may have been others present.

By Mr. NORWOOD:

Q. Do I understand you that you told Governor Clayton that?—A. No; I may have told him so, or may not. I rather think I never told him so. It is a matter of no importance; I never considered it so at that time. I may have so stated it, but my impression is that I did not.

By Mr. MORRILL:

Q. You mean to say, as I understand you, that in conversation with Governor Clayton he told you he would not vacate the office of governor until he knew who was to succeed him, or that this man was not to succeed him?—A. About that; but he never told me that he would get Johnson out of the way, and I knew it was not in his power.

Q. But you say you would not have voted for him?—A. I say now I

would not have voted for him upon any consideration to allow Johnson to succeed him.

By Mr. BARNES:

Q. Have you not said, and is it not true, that he could not have been elected without agreeing to get rid of Johnson?—A. No, sir; I did not say that. I believe he could not have been elected if it had been generally known and understood that Johnson would have succeeded him.

Q. Do you not know the fact that Governor Clayton did agree with members of both branches of the legislature to set on foot a proceeding to remove Johnson, before his election to the Senate?—A. I do not.

Q. Is it not the fact that a proceding was on foot to expel Johnson, when you had the conversation with Governor Clayton?—A. I will state in answer to that question, as being amendatory of a former statement that I made in reference to the *quo warranto*, that the proceeding in the nature of *quo warranto* had been instituted before the assembling of the legislature. In my former examination I think I stated, or it may be inferred from my statement, that the *quo warranto* was instituted sometime during the pendency of these agitated questions; but the proceeding of *quo warranto* had been instituted some time before.

Q. Who set on foot the *quo warranto* proceeding?—A. Under the laws of the State writs of *quo warranto* or such proceedings are instituted by the attorney-general. Whether he did it or not I do not know; or whether any one else did it, I do not know.

Q. Who drew the articles of impeachment against Johnson?—A. I cannot now state definitely. I know the matter was settled in a republican caucus, at which caucus I was present.

Q. When?—A. I think probably the day before or two days before they were presented in the house.

Q. Is it not true, upon reflection, that it was determined upon the Sunday night immediately before they were presented, and that they were presented next day?—A. I could not definitely state whether it was on Sunday night or Saturday night. It was a very short while before they were presented in the house.

Q. What is your best recollection as to the time? Can you at all fix it?—A. I cannot.

Q. Where was that caucus held?—A. It was held in the regular caucus-rooms, I think.

Q. Where were they?—A. Next to Fletcher & Holt's building.

Q. Do you mean the building on Main street?—A. Yes, sir; I do not know the name of the building.

Q. You say it was determined upon in republican caucus that articles of impeachment should be preferred against him?—A. It was.

Q. Was the caucus well attended?—A. It was.

Q. Were all the republicans present?—A. I cannot say that all were, the usual number.

Q. When you say "republicans," do you mean the republicans who were friendly to the election of Senator Clayton?

Mr. NORWOOD. Were they "Brindle-tails" or "Minstrels?"

Mr. BARNES. The "Minstrels" are the Clayton men; the "Brindle-tails" are what they call Brooks men. That is the way I understand it.

A. I do not think there were any present but those who were friendly to Governor Clayton.

By Mr. BARNES:

Q. Your impression is that there were none present at that caucus except republicans favorable to the election of Governor Clayton to the

Senate?—A. Yes, sir; there may have been others, but I cannot now state.

Q. Is it not true that at the time of these caucuses, you were trying to arrange all the time to get Johnson out of the position of lieutenant-governor of the State, in order to make way for the election of Governor Clayton to the Senate, and of Mr. Hadley to fill his place?—A. It is not. I will state that in no caucus in which I was present, (and I believe I was at all of them,) was this matter ever brought before the caucus for action. The matter was frequently alluded to in caucuses, I know, by members in their speeches; but that it was ever a question before any caucus I have no recollection, directly or indirectly, with the exception of the last caucus held for the purpose of considering articles of impeachment against Lieutenant-Governor Johnson.

Q. Is it not true that during the sitting of the legislature, and up to about the time Governor Clayton appointed Lieutenant-Governor Johnson secretary of state, they were hostile to each other?—A. I know nothing of my own knowledge about any hostile feelings existing between them.

Q. How many members of the legislature were present in the house when you took the speaker's chair?—A. I think there were forty.

Q. Was it understood when you went into the house that you were to be speaker?—A. It was decided in caucus the night before.

Q. Did you take a seat in the house before you occupied the speaker's chair?—A. I did.

Q. How long did you sit there?—A. About, probably, two minutes; it may have been more.

Q. Is it not true that you entered the house and went almost on a run to the speaker's chair?—A. It is not true.

Q. Did you not walk rapidly?—A. No, sir; not what I call rapidly; it may have been walking rapidly for a slow person.

Q. You spoke in your examination-in-chief of conversations with Governor Clayton in reference to what would control him in issuing the certificate of election to Mr. Edwards. State the time and place of those conversations.—A. Those conversations were in Little Rock. I could not state the exact time. The number of conversations I could not give. I only recollect the fact that such conversations did occur and in reference to that particular subject. It was a matter in which I felt a little interest. My county, by my own exertions, through my influence, had supported Mr. Boles, and we did it at the solicitation and request of Governor Clayton. That county gave him over five hundred majority. He ran on the same ticket that I did, and being placed in that position it is natural that I should have had conversations with the governor frequently; and they were to the effect that he would be guided entirely by the investigation of the legislature, and that he would give the certificate neither to Boles nor Edwards until that matter had been determined. It was during the session of the legislature; at what particular time I could not state.

Q. Do you remember whether it was before or after his first election to the Senate?—A. I do not.

Q. Is it not true that Judge Searle lives in your county?—A. It is.

Q. Who were the registrars of your county?—A. Mr. Timmins was registrar.

Q. And also judge of election?—A. I will state in explanation of that that I was president of the board of review. Mr. Timmins had registered the county, and I think I made complaint to Governor Clayton, either by letter or conversation, that Mr. Timmins had not given a sat-

isfactory registration. Mr. Timmins was removed and I was appointed in his place as president of the board of review.

Q. Were you at that time a candidate for the legislature?—A. Not at the time of the appointment. At the time I acted I was.

Q. At the time you acted upon the board of review you were a candidate for the legislature?—A. I was.

Q. Who introduced in the legislature the bill in reference to the penitentiary and providing for the superintendent?—A. I was the author and introducer of the bill.

Q. Did you not leave your position as speaker of the house and take tke floor and advocate it?—A. I did.

WASHINGTON, *January* 26, 1872.

S. R. HARRINGTON sworn and examined.

By Mr. BOWEN:

Question. Please state what you know in reference to Senator Clayton's position in regard to the issuing of the certificate to General Edwards as member of Congress from the third district of Arkansas.—Answer. I called upon Governor Clayton on the 15th day of January, 1871, five days after he had been elected to the Senate. I expected in a day or two to return to Washington City, and I wanted to do what I could in this matter before leaving Little Rock. I asked him if he was not going to issue a certificate of election to General Edwards. He said he had no doubt as to the matter of the election, that General Edwards was legally elected; but, at the same time, he was not willing, in view of the record as it appeared in the office of the secretary of state, to issue the certificate. I called his attention to a precedent, his predecessor, Governor Murphy, having issued a certificate to Mr. Kyle as member of Congress at one time, and in doing so had thrown out whole counties by reason of frauds, and that the evidence furnished him at that time of frauds was not half so plain as that which had been furnished to Governor Clayton, because I knew I had taken steps, with others, to have affidavits made and filed before him of these frauds, and hence he had before him at least *ex-parte* sworn statements. He positively declined, but remarked that if, upon the investigations which were about to be made, or were being made, by the general assembly, he should be authorized to issue the certificate to General Edwards, he would do so; but unless they did take such steps as to make the result clear as matter of record, he would not issue it.

Q. What did you understand Governor Clayton's position to be in regard to issuing the certificate, and upon what did he intend to base his action, or do you know anything about that?—A. As I have said, he stated to me that if on the investigation the general assembly should make such report and take such action as would give Edwards a majority, in other words, if that investigation should declare null and void those votes cast at the polls to which I have referred, I of course knew that would place Edwards in majority. These were not his exact words; but I think his remarks were that if, upon the investigation then being had by the general assembly, the result should show that General Edwards was entitled to the certificate, he would issue it. He referred also to the decision of the supreme court and said that that already having been made, he thought that the illegality of those votes was very well established, but he desired that the legislative department of the government should direct him, as it were, what to do.

Q. Did you understand, or not, whether Governor Clayton felt any interest as to which way this election should be decided or to whom the certificate should be issued, or was it his desire to see the legislature take action, and then that he intended to base his action on that, no matter which way it should be?—A. Solely. He did not support Judge Edwards. It was not possible for him to have any personal feelings in the matter; or if he had any, they were the other way, as my own were between the two men. It is well known that Judge Edwards ran outside of his party, and was elected more by democratic votes than republican votes.

Q. He proposed simply, then, to defer action and be governed by the decision of the judicial and legislative departments?—A. Yes, sir.

By the CHAIRMAN:

Q. Do you know anything of Governor Clayton's connection with the issuing of railroad bonds?—A. Nothing.

Q. Did you have any conversation with Governor Clayton on this subject before his first election to the Senate?—A. No, sir; I never spoke to him about the certificate until the 15th day of January. The reason I am so particular about the date is, because I started for Washington the 17th, and it was the day before, but one.

Q. In these conversations was there at any time any suggestions by him, or by you to him, or any person to him in your presence, that he had made any promise to Mr. Edwards about the issuing of the certificate, and its bearing upon his election to the Senate?—A. Never. I will state further, that I never heard that subject alluded to until May last in taking depositions, to which the Senator has referred, before Judge Whytock; that is, the matter of trade connecting the issue of the certificate to General Edwards with the Senator's election.

Q. Were you a resident of Little Rock at the time of the election by the people?—A. I was.

Q. State whether the fact of illegal voting or the claim of illegal voting was discussed generally, and talked of in Little Rock, at the time?—A. It was.

Q. You had no conversation with Governor Clayton on that subject, however, before the time you mentioned?—A. I do not know. I may have spoken to him about the fraudulent voting before that time. I undoubtedly did, but I do not remember now any such conversation.

By Mr. BOWEN:

Q. You have referred to some wards and precincts where there were double polls. I will ask you now a question in regard to some townships where there were no double polls, and will read one paragraph from the report of the legislative committee, to call your attention to it: "Your committee now desire to call attention to the fact that in Ashley Township the election was opened before the hour prescribed by law, and by judges who had no authority to act, as the regular judges were present and ready to hold the election, and to the further fact that as many as seventy armed men were there for the purpose of intimidation. The same thing is true in Gray, Badgett, Eastman, and Campbell." Were those or were they not townships where double elections were not held?—A. There were not double elections in those townships, but bodies of men took possession of the polls and prevented the appointed judges from holding the election, and elected judges from their own crowd.

Q. Those townships, then, are outside entirely of those wards and townships where double elections were held?—A. Yes, sir.

Q. And in addition to them?—A. Yes, sir; in addition to them.

WASHINGTON, *January* 30, 1872.

S. R. HARRINGTON recalled for cross-examination.

By Mr. BARNES:

Question. How long have you resided in the State of Arkansas?—Answer. I moved there in November, 1869.

Q. Do you know who the officers of registration were in the county of Pulaski in 1870? If so, give their names.—A. Mr. Fitch, I believe, was president of the board.

Q. Give his full name.—A. I do not know it.

Q. Who else?—A. I think Chamberlain was on the board.

Q. What is his full name?—A. I do not know that.

Q. Who else?—A. I do not know. I do not know but that Phillips was a member of the board, though I am not certain.

Q. Is Fitch the present clerk of the circuit and criminal court of Pulaski County, Arkansas?—A. He is.

Q. Was he appointed by Governor Clayton?—A. I think not, but I do not know.

Q. Is Chamberlain a justice of the peace in the city of Little Rock?—A. He is.

Q. Was he appointed by Governor Clayton?—A. I think not.

Q. Who appointed him?—A. Governor Hadley, I think.

Q. How long after the election of Governor Clayton to the Senate, before his appointment?—A. I do not know when it occurred; some time last summer.

Q Was Chamberlain a member of the legislature?—A. He was.

Q. What county did he represent?—A. Pulaski.

Q. On what ticket was Chamberlain run for the legislature?—A. The conservative or democratic ticket. It was called the conservative ticket at that time, I believe; I think he came out independent, but I am not certain, and they put him on their ticket.

Q. Do you know when the registration books were returned?—A. I do not.

Q. I understand that you stated in your examination-in-chief that you advised Governor Clayton to reject a large number of poll-books or returns of the election of 1870 in the county of Pulaski. Is that so?—A. I asked him if he could not do so. I virtually advised it, you may say.

Q. At what time did you give that advice?—A. On the 15th day of January, 1871.

Q. Were all the returns in from the congressional district before you gave that advice?—A. I do not know.

Q. Had you examined any of the returns before you gave that advice?—A. I had not.

Q. Then why did you advise him to reject the returns?—A. The frauds were so notorious, everybody knew of them without examining the returns. I had heard some of the ablest lawyers in the State speak of it.

Q. You have stated already all the facts within your own knowledge in reference to the frauds, as I understand you?—A. Yes.

Q. And your advice, then, was based on general rumor and not upon personal knowledge?—A. Not general rumor. To a great extent, investigation had taken place in the city council, and the frauds were of that notorious character that it was not rumor. It could not be considered such. It went beyond that.

WASHINGTON, *January* 31, 1872.

S. R. HARRINGTON recalled.

Re-examined by Mr. BOWEN:

Question. Were you acting as United States district attorney for the eastern district of Arkansas at the time the indictment against Governor Clayton was pending?—Answer. I was, at the October term, 1871.

Q. When that case came on in that court did you attend to the matter yourself in person?—A. No, sir; the case against Governor Clayton was prosecuted by Colonel Whipple, assisted by Colonel Barnes and Colonel Thompson.

Q. How did that case come to be prosecuted by Mr. Whipple, the former district attorney, and by Colonel Barnes, when you were prosecutor at the time?—A. I had a very large docket, more than I could attend to any way, and I desired that that case in particular, as it had become somewhat notorious, should be prosecuted in such a manner that whatever might be the result I could be charged with nothing, and hence I employed those gentlemen. I supposed Colonel Whipple had investigated it and knew more of that case, and had given more attention to the statute under which it was brought than I had.

WASHINGTON, *January* 31, 1872.

A. K. HARTMAN sworn and examined.

By Mr. BOWEN:

Question. Where do you reside?—Answer. At the city of Little Rock, Arkansas.

Q. Where did you reside during the year 1870?—A. At Little Rock.

Q. What position did you hold, if any, there at that time?—A. I was mayor of the city.

Q. With what party were you affiliated at that time?—A. With the "Brindle-tails."

Q. Were you a candidate on their ticket for the legislature?—A. Yes. sir; for the lower house.

Q. Who were the other candidates on that ticket with you at that time?—A. Mr. Hodges, Mr. Green, Mr. Butler, Mr. Pilkington.

Q. Who was the candidate for the senate on that ticket—A. Joseph Brooks.

Q. Do you know of any arrangements having been entered into by the party just referred to to usurp the polls in Pulaski County?—A. I do.

Q. State concisely and briefly what those arrangements were and when they were entered into.—A. There was a party of men detailed to every precinct in the county to take possession of the polls the night before election.

Q. Was that or was it not for the purpose of getting possession of the polls and polling-places as against the regularly appointed judges?

Mr. BARNES. Is that a proper question?

Mr. MORRILL. O, yes. [To the witness.] Go on and state all you know about it. You say there was an arrangement by parties to take possession of the polls over night. State who the parties were, and what the arrangement was, and everything you know about it.

The WITNESS. The arrangement made in other precincts I am not acquainted with personally, but what I know is about my own ward,

the First ward in the city of Little Rock. Mr. Hodges sent for me to have an interview with me the day before the election, I believe the 7th of November, and he made me acquainted with the plan to take possession of the polls and nominate judges by the people against the set of regularly nominated judges nominated by the registrar of the county, and he put me in charge of the First ward, where I reside, to take care of that ward for that purpose.

By Mr. NORWOOD:

Q. How was that to be done?—A. It was to be done by going to the polling places at an early hour, before midnight or so, and putting a squad of men in and holding the polling-room, or room where the votes were polled, at all hazards, and if the regularly appointed judges appointed by the registrar of the county should make their appearance to refuse them admittance, and at the hour of 8 o'clock in the morning elect judges by the people and hold an election.

By Mr. BOWEN:

Q. Was there any arrangement to set the town-clock ahead, by which you could get ahead of the time in your operations?—A. That was part of the programme allotted to me, to set the town-clock ahead about thirty minutes, for the purpose of being there half an hour sooner than the regularly appointed judges.

Q. At what place in Little Rock was this arrangement made with you?—A. It was made with me at the office of Rice & Benjamin, opposite the State-house.

Q. Who was present in that office when you arrived there?—A. The office is composed of two rooms; in the first room that I stepped in I saw M. L. Rice, Mr. Hodges, Judge Whytock, Mr. Gantt, and one or two more whom I cannot remember.

Q. Was Hon. B. F. Rice present?—A. No, he was not present.

Q. Did you understand from these parties that the same kind of operations which you detailed for the First ward of Little Rock were to be carried out in most of the precincts of the county?—A. Yes; I made objection to the proceedings, and they gave me to understand that this was done all over the county; so they wished me to take charge of the First ward poll.

Q. Do you know who took charge of Ashley township under that arrangement?—A. Mr. Hodges.

Q. You say you were requested by this same party to set the town-clock ahead; be kind enough to tell the committee who came to you, and at what hour they made that request.—A. The first request was made by Mr. Hodges that very Sunday morning; and the night preceding the election, about three o'clock in the morning, Mr. Benjamin and General Catterson and Mr. McDiarmid came to my office. After they had been several times and my folks told them I was asleep, I heard them come in and out; finally, I went down stairs to see what it was, and I saw these three gentlemen; they asked me if I had attended to it; I told them no.

Q. Is the General Catterson to whom you refer the suspended United States marshal of the eastern district?—A. Yes, sir.

Q. Was he marshal at that time?—A. He was.

Q. You speak of Mr. Benjamin; who was Mr. Benjamin?—A. Brother-in-law and partner of Senator Rice, an attorney.

Q. In that arrangement, state to the committee whether or not this General Catterson was or was not to take charge of the Third ward of the city?—A. He was to take charge of the Third ward.

Q. State in what capacity, and for what purposes, the deputy United States marshals appointed under him were to be used.—A. He told us to protect the outside polls and arrest the regularly appointed judges if we could.

Q. Were you yourself one of the deputies?—A. Yes, sir.

Q. Do you understand whether or not the men who were sent to the different wards and townships were all deputy marshals?—A. Yes, they were.

Q. And all for the same purpose?—A. Yes, sir.

Q. State what pretext, if any, these parties made to you for pursuing this course.—A. I inquired for the reason in that interview I had with Mr. Hodges, and he told me that the whole matter had been examined by Senator Rice, and it was his advice to take the course I have stated.

By Mr. MORRILL:

Q. What matter had been examined?—A. I had my doubts about the legality of these proceedings, and so I remarked to Captain Hodges that I believed the thing was illegal, and he told me that Senator Rice had examined the law of the matter, and he advised us to do it, and that satisfied me.

By Mr. BOWEN:

Q. You mean in relation to the appointment of these judges over the regular judges?—A. Yes.

Q. What did he say?—A. He said by all means not to allow them to come in; to be armed and ready for any emergency, which we were.

Q. In your ward what was done inside the building the morning of the election, before it took place?—A. We had a squad of men there all night.

Q. Did the regular judges appear there that morning?—A. Toward daylight, probably at 6 or half past 6 o'clock, some of the regularly appointed judges appeared and demanded admission, and we refused it to them, or at least the men present refused it to them. They made objections, and stated that they had been appointed to hold the election, &c.; but according to our instructions they could not get in.

Q. Were they kept out by force?—A. The doors were locked on them.

Q. Was there a sufficient force inside of the house to prevent their coming in if they had attempted to force their way?—A. I think so.

Q. How many were inside the house?—A. About twenty-five or thirty; a few more or less at times.

Q. Was it understood beforehand who the new judges were to be; that is those who were to be elected by the bystanders?—A. That was left to me.

Q. When did you settle that; that night or in the morning?—A. The evening before I notified the men who were to be elected to be on hand.

Q. Was your understanding that that was the programme which was to be carried out in other precincts of the county?—A. That was the condition under which I consented to attend to the First ward.

Q. And you understood that to be the arrangement for the whole county?—A. Yes, sir.

Q. From what subsequently transpired in the way of investigations there, was it made to appear that that was substantially carried out in other precincts?—A. Yes, sir; it was carried out in every precinct except one ward in the city, as to which I am not quite certain. I think it was not done in the Second ward, but I am not quite certain.

Q. Did the United States marshal, or did he not, tell you anything about having authority from the President to do these things?—A. Yes, sir; I inquired for his authority, because the matter was very suspicious to me, and my desire was to comply with the law; and so he told me that he had a dispatch from President Grant to go ahead and arrange things as he did arrange them.

Q. Did you ever see that dispatch?—A. No, sir; I requested to see it, and he told me he would show it to me; but other persons came between, so that I had no further chance to see him.

By Mr. BOWEN:

Q. Did he say anything about having orders to use United States troops?—A. Yes; he said the commander of the arsenal had received a dispatch to be at his disposal. That was about ten o'clock on the morning of the election.

By Mr. NORWOOD:

Q. Who said this—Marshal Catterson?—A. Yes; General Catterson. He said the officer of the arsenal had a dispatch from Washington to put his troops at the disposal of the marshal.

By Mr. BOWEN:

Q. Were any of the regular judges of election appointed by the board at the First ward arrested by the deputy marshals, or deputy sheriffs, or any of the parties acting in this conspiracy?—A. They were arrested at three o'clock in the afternoon. At eight o'clock, when the hour struck, (this place, where the election was held, was also an engine-house,) the foreman of the engine company arrived and demanded admittance to his engine-room. This was not refused to him, and so he went in and opened the doors and allowed the regularly elected judges to enter.

Q. Do you know if there was any arrangement by which the regular judges were to be arrested before the votes were counted in case they succeeded in holding the polls in any ward or township?—A. That was the understanding.

Q. That in case they succeeded in holding the election at any precinct then they should be arrested before the vote was counted?—A. Yes, sir.

Q. Were the persons who conducted the election at the different townships of the rural portions of the county residents, as a general thing? I ask you not only for your knowledge at that time, but from the subsequent investigations and developments; were they residents of the townships, or were they sent from Little Rock?

Mr. BARNES. I object to the last part of the question as not being legal. I have no objection to anything the witness may state from his own knowledge on that subject.

The WITNESS. I can state from my own knowledge that they were residents of the city of Little Rock.

Q. (By Mr. BOWEN.) You speak of those who were sent to the different townships?—A. Those who were sent.

Q. Were the parties who were sent out to the townships, as a general thing, made deputy United States marshals?—A. Yes, sir; every one of them without exception.

WASHINGTON, *February* 1, 1872.

A. K. HARTMAN recalled.

The WITNESS. I wish to make the following corrections concerning my evidence yesterday: In speaking of the persons present in Rice &

Benjamin's office, on the Sunday previous to the election, I desire to explain that the persons named by me as being there were not present during any conversation with Mr. Hodges, which took place in the adjoining room; that the general plan was not to prevent the regular judges from holding elections, but it was for the other parties to be at the polling-places ahead of time, and then claim that the regular judges were not on hand at the proper time; that the regular judges were not to be superseded, but, when they made their returns, McDiarmid, the county clerk, was to count the returns of the bogus judges instead of the regular judges, which he did. What I heard about arresting the regular judges I did not hear from Mr. Hodges, but from other persons on the day of election.

Cross-examined by Mr. BARNES:

Q. How long have you resided in the city of Little Rock?—A. Since 1864.

Q. Are you well acquainted in the city of Little Rock and the county of Pulaski, Arkansas?—A. Yes, sir.

Mr. BARNES. Very well. (To the witness.) Are you the same Hartman who gave his testimony in the winter of 1871 before the Mallory committee of the legislature of Arkansas?—A. I do not know what you call the Mallory committee.

Q. I mean the joint committee raised, called the Mallory committee.—A. If you name the official title of the committee, perhaps I can answer.

Q. It was the joint committee raised by the two houses of the legislature to inquire into the election frauds in Pulaski County, Arkansas, at the November election, 1870?—A. I was before that committee.

Q. You are the same person who was examined as a witness before that committee?—A. Yes, sir.

Q. Were you sworn and examined in that case before that committee?—A. Yes, sir.

Q. Is your testimony correctly reported in the report of the Mallory committee, which I now hand you? and if not correct, state in what respects it is incorrect.—A. (Examining the report.) I gave the correct answers to the questions which were put to me.

Q. Do I understand you as meaning to say that your testimony is correctly reported?—A. I mean to say that my answers are given correctly as to the questions which were put to me.

Q. Who was present when you were examined as a witness in that case before that committee?—A. I was examined by the clerk of the committee, and acknowledged my signature in the presence of the committee in full.

Q. Did you not make an affidavit after that time, and upon the coming in of the report of the committee, and send it into the legislature of Arkansas, stating in substance that your testimony, as reported by the committee, was not correct?—A. I do not remember having done that.

Q. Did you not furnish such an affidavit to Senator Caraloff, or furnish it to some person, with authority to furnish it to him, to be used upon the floor of the senate?—A. No, sir; I did not.

Q. Was any other person than D. P. Upham, the clerk of that committee, present at the time of your examination?—A. No, sir.

Q. Will you make part of your present testimony your testimony referred to in this report of that committee?

(The testimony of Mr. Hartman is added hereto as an appendix, being allowed by the committee to be added hereto.)

By Mr. BARNES:

Q. Did you mean to say, in your examination-in-chief, that General Catterson, Milton Rice, Judge John Whytock, M. W. Benjamin, George W. McDiarmid, and James L. Hodges were all present at the time of the agreement detailed by you in reference to the holding of the election on the 8th day of November, 1870?—A. No, sir; I stated it differently yesterday. I stated that the before-named gentlemen, with probably one or two exceptions, I am not certain of all, were in one room when I stepped in, and Mr. Hodges took me into the adjoining room. That is the way I stated yesterday. If I did not, I meant to state it so.

Q. If you did not, it was a mistake on your part?—A. I do not know that I did not state it so. My impression is that I did state it so.

Q. Where was the office of Rice & Benjamin at the time of the conversation alluded to by you?—A. Opposite the State-house, in the Weaver building.

Q. Is it the same building occupied by Benjamin & Barnes as a law-office now?—A. I believe so. I have not been there since that new firm started.

Q. Did you hold the conversation with Hr. Hodges in the lower or in the upper rooms of that building?—A. In the south room, first floor.

Q. Was any other person present except you and Hodges at that interview?—A. Nobody else.

Q. Was any other person than you and Hodges present at any time when the arrangement referred to by you in your examination-in-chief was talked of and agreed upon?—A. I cannot remember.

Q. You do not remember that any other person was present at any time?—A. I know that no other person was present at that specified time on Sunday morning. I do not know if in other conversations other persons were present.

Q. Did you say the conversation occurred on the day before the election?—A. No; two days before the election. The election was on Tuesday; this was on Sunday.

Q. Do you pretend to say that any of the other gentlemen named by you as being present in the office when you entered it, had any knowledge or information touching the object of the conversation or agreement between you and Hodges?—A. After my conversation was finished with Mr. Hodges, if I remember aright we walked back into the front room and generally canvassed the matter.

Q. In the presence of the gentlemen alluded to by you?—A. Yes; with one or two exceptions.

Q. Now, name specially all the men present at the time the agreement between you and Hodges, made in the south room, was canvassed.—A. I have named them already.

Q. I would be glad if you would name them now in this connection. Give their names here—all the men present who participated.—A. I have named them with the exception of probably General Catterson. I am not quite certain he was present, but as to the others I am certain.

Q. Are you certain Milton Rice was present?—A. I am.

Q. Are you certain M. W. Benjamin was present?—A. I believe they were present.

Q. Are you certain that Judge John Whytock was present?—A. I think so.

Q. Are you certain that Gantt was present?—A. Yes, sir.

Q. Which one of the Gantts?—A. E. W. Gantt.

Q. The present prosecuting attorney for Judge Whytock's district?—A. Yes, sir.

Q. Did they all understand the purport of the agreement with Hodges detailed by you?—A. I cannot say that. I do not remember exactly the conversation.

Q. Did all or any of those men sanction and agree to the arrangement you have named?—A. They were all belonging to one faction; of course their sentiments all agreed.

Q. They fully understood it, then, you say?—A. I do not know whether they did. I cannot say that they did understand it.

Q. At what hour in the day did that conversation occur?—A. Before dinner some time.

Q. Where was Senator Rice at that time?—A. He left a few days before, as I saw in the papers.

Q. He was not then in the city of Little Rock?—A. Not to my recollection.

Q. Do you undertake to say that George W. McDiarmid was present at that conversation?—A. I am not quite certain.

Q. Did you ever hold any conversation with George W. McDiarmid, the clerk of the county court of Pulaski County, in reference to that matter?—A. I do not know that I did.

Q. Did he ever assent or agree to the arrangement you have detailed with Hodges?—A. That was generally understood.

Q. What do you mean by the expression "generally understood?"—A. Our general conversation we had off and on; as is usual before political campaigns, party friends meet and discuss matters.

Q. Did you detail to George W. McDiarmid the fact that you had agreed to enter into the arrangement you have referred to with Hodges, and did he assent to it?—A. This was a matter of fact, that Hartman had to take charge of the First ward poll, and everybody spoke about it and named it among themselves.

Q. Where did you hold the conversations with these men you have named, and when?—A. Off and on; I cannot name any particular day, or hour, or minute, or place.

Q. Do you pretend to say that you held the conversations you have detailed with these men, or any of them, except Hodges?—A. I held no particular interview with anybody, but with Hodges; that is to say, to retire to a room and sit down and talk about the matter; I held no such interview.

Q. Did you manage and control the operations at the First ward polls in the city of Little Rock on the day of election, yourself?—A. I did.

Q. Entirely?—A. Not entirely myself; I had others to help.

Q. Did you set forward the town clock, according to the agreement you made with Hodges?—A. I did not.

Q. Did you cause it to be done?—A. No, sir.

Q. Was the town clock really changed at all?—A. Not to my knowledge, because I did not change it.

Q. Is it not, then, true that the judges and officers who held the election at that ward in the city of Little Rock were not elected until after the hour of 8 o'clock in the morning?—A. But by that time the other poll had opened also; the judges got elected after the other poll opened.

Q. Do you now mean to be understood that the other judges had appeared upon the ground and entered upon the discharge of their duties prior to 8 o'clock in the morning?—A. No, sir; that is not what I answered. I answered that the election of the judges took place after

the regularly appointed judges commenced to take in votes. That is what I said.

Q. I understood you differently; you will pardon me. At what hour, then, did you cause the people to hold the election for your judges and officers?—A. Right after eight o'clock.

Q. How long had the regular judges, or those whom you call the regular judges, been holding the election when you made the election of the officers you name?—A. I do not know how long they had held it, but I heard from somebody that they opened——

Q. I do not want what you heard, but what you know yourself.—A. Then I know nothing, because I was not near that poll.

Q. Is it not the fact that your officers and judges were elected, and the polls opened and votes taken by them, before the other judges appeared upon the ground?—A. No, sir.

Q. Are you certain that you are correct in reference to that?—A. I am certain of that.

Q. How far away did the other judges hold their election?—A. All in one building. The window where they took votes in faced the east, and our poll was established on the northwest corner.

Q. Was there any violence at the polls at either voting-place during the voting?—A. No, sir.

Q. Did everybody vote that desired to vote?—A. Yes.

Q. Where did the republicans vote on that day; at your polls, or at what you call the regular polls?—A. They voted in both places.

Q. The republicans did?—A. Yes, sir.

Q. Where did the great mass of the republicans vote?—A. I am not able to answer that question, because I do not know every man's politics.

Q. You have a general knowledge of the politics of the men?—A. I supposed so, but I did not.

Q. Is it not your best recollection that the republicans chiefly voted at your polls by your advice and procurement?—A. Of course all that I could make vote there I made vote there.

Q. Was there any violence at any time during the day of election at the polls where you were?—A. There was no violence committed.

Q. None at all?—A. None.

Q. Was the election free and fair and open?—A. Yes, sir.

Q. At both polls?—A. I cannot say anything about the other poll, because I was not there.

Q. I mean at the two polls; I do not mean in the different wards, but I mean at the two places in your ward?—A. I state that I never went near the other poll, but staid at the poll where I was.

Q. You say you did not go near the other poll in your ward?—A. Only once in the afternoon, when the judges were arrested.

Q. Was the other poll held in the same building where you held yours?—A. We held our poll on the outside of the building.

Q. You spoke of some officers being arrested on the day of the election in your ward, did you not?—A. I did.

Q. At what hour in the day were they arrested; and please give the names of the officers arrested, and the causes or the complaint against them upon which the arrest was based.—A. I have no certain recollection what time it was; it was probably between three and four or thereabouts, to my best knowledge.

Q. Did you see the warrant for the arrest?—A. I believe I saw the warrant. I think I saw General Catterson coming and I stepped up to him, and I have an idea that he showed me the warrant.

Q. What officers were arrested and how long were they held under arrest?—A. They were the regularly appointed judges of the First ward, and both were arrested.

Q. Do you know for what?—A. No; I do not remember the exact cause.

Q. Who procured their arrest?—A. It was tried to find a pretext for arresting them all morning.

Q. That is not an answer to my question.—A. I do not know who procured that particular arrest, but it was understood it should be done.

Q. Do you pretend to tell the committee that General Catterson, or any of the men you have referred to as being present at Benjamin's office, had anything to do with the arrest of these officers?—A. I do not know.

Q. You do not know, then, who made the complaint against the officers?—A. No, sir.

Q. Do you pretend to tell the committee that General Catterson had any agency in bringing about the arrest of the officers there, except merely to execute the warrant as directed to him?—A. I do not know.

Q. Do you mean to be understood that General Catterson agreed with you that he would take charge of the Third ward polls in the city of Little Rock and carry out the agreement made between you and Hodges?—A. I am not quite certain that he agreed to take charge personally of the Third ward poll.

Q. Did you hold any conversation with him upon that subject touching the agreement?—A. Yes, sir; I did.

Q. Where and when?—A. I believe the day before the election.

Q. At what place?—A. At the United States court-room, or in the anteroom leading into the court-room.

Q. Who was present at that conversation besides you and Catterson?—A. I cannot remember that now; I believe a gentleman I brought there with me. I do not know his name at present. He was an Englishman; he left Little Rock since that time. I saw him in Memphis a few days ago as I came on, but I don't know his name.

Q. State to the committee the substance of the conversation between you and Catterson at the United States court-room?—A. General Catterson requested me to act as deputy marshal.

Q. Did General Catterson advise you to do anything that was illegal?—A. I do not know; I do not remember.

Q. What advice did he give you, except merely to act as deputy marshal?—A. I think he left it to my discretion how I would act.

Q. Did he intimate to you that he desired you to act illegally or violate the law in any way whatever?—A. Of course it was understood by him appointing me as deputy marshal that he was to give me authority to act at my pleasure; in other words, to support the "Brindle-tail" ticket or faction through my authority as United States marshal; to lend official support to the ticket by my getting appointed deputy marshal; that was the understanding.

Q. Did he instruct, advise, or countenance any illegal voting or action upon your part?—A. What do you mean by illegal voting?

Q. The casting of votes by persons not entitled to vote at the election, admitting persons to vote who had not been registered or were not entitled under the laws and constitution of the State to cast their votes at the election.—A. No, sir.

Q. He gave you no advice of that description?—A. No, sir.

Q. Did he not direct you to have the election conducted in a quiet

and peaceable manner, and if there was any disturbance created at the polls to report the facts to him?—A. No, sir.

Q. Did you not, at or about the assembling of the last legislature of Arkansas, advise with, apply to, and insist to Mr. E. A. Fulton, and other members of the legislature, that the election was fair and that you had been fairly elected and was entitled to your seat therein?—A. That was my idea at that time.

Q. Do you admit that you did say so?—A. I do not know but I did. My idea was that I had been elected fairly, and I might have expressed myself.

Q. Do you believe now that you were fairly elected to the legislature of Arkansas in 1870?—A. No; I do not believe so to-day.

Q. Did you ever believe so?—A. I stated so; I did once.

Q. What changed your mind?—A. I got insight into certain things which I did not know at that time.

Q. Whom did you get the insight from?—A. From the events which passed, by the action of the legislature in the house, of the Brindle-tails voting with the democracy, &c.; the impeaching of General Clayton, &c. This all showed me a concert of action.

Q. Do you mean to say that the Minstrels have convinced you of late that you were wrong?—A. No, not the Minstrels; I never stated that. I stated that the way things went, certain events happened, all of which brought me to the conclusion that something had been wrong in the last election.

Q. At the time you agreed to the arrangement detailed to you with Hodges did you believe it was right?—A. Yes; I believed it was right at that time.

Q. Why did you believe it was right?—A. The explanation Mr. Hodges gave me, &c.

Q. What explanation did Mr. Hodges give you at the time to induce you to believe that the arrangement you entered into with him was right?—A. He cited Senator Rice's authority, as a lawyer; said he had examined the law in connection with other lawyers, and that silenced my objections.

Q. Will you now repeat what Hodges told you Senator Rice said to him?—A. He told me in that interview that Sunday morning, when I raised objection to the proceedings, that the question had been examined by lawyers; for instance, by Senator Rice and other lawyers of the party, and they believed it was legal.

Q. What was legal?—A. It would be legal to execute the arrangement we spoke about that Sunday morning.

Q. Do you mean he said to you that the opinion of Senator Rice was that it would be legal for the people at the polls, after the hour of 8 o'clock on the morning of the election, to elect other officers as judges to hold the election; is that what you mean to say?—A. That the whole proceedings were legal, to take forcible possession of the polls, if necessary, and then proceed to hold an election.

Q. Do you mean to be understood as saying that James L. Hodges told you that Senator Rice said it would be legal to take forcible possession of the polls and forcibly exclude regularly appointed judges and hold an election?—A. After we had spoken about the arrangement to be made on the day of election, I inquired what authority he had for all this, and he said that Senator Rice and other lawyers had examined the question.

Q. What other lawyers did he tell you had examined the question?—A. He spoke about Mr. Benjamin, also.

Q. Was all this in the conversation in the south room of the law-office you referred to?—A. Yes, sir.

Q. Are you definite as to that?—A. I am.

Q. Did you seek the opinion of any of those lawyers to ascertain whether Hodges had told you the truth in reference to it?—A. No; Mr. Hodges's word was good enough to me.

Q. And you believed it?—A. I believed him.

Q. And you believed then that it was right to take forcible possession of polls and exclude regularly appointed judges and officers of election, and by force and arms keep away the officers of the law. Do you tell the committee that you believed at that time that that was right?

Mr. BOWEN. I suggest that the witness never said any such thing.

The WITNESS. This is not my point.

Mr. MORRILL. (To the witness.) You have this liberty: If the counsel puts a question to you which implies more than you have answered, you can answer it in your own way. You are not obliged to answer yes or no, but answer according to the fact.

Mr. BARNES. I concede his right to do that.

The WITNESS. That is just what I want to state. I said that we did not specify the arrangements. When I inquired where his authorities for all these proceedings were, we did not specify as you do here; but after a general conversation and a general understanding of the arrangements to be made on the day of election, I inquired whether we had the law on our side, and then in comes Mr. Hodges's remark, that Senator Rice had examined the question with other lawyers mentioned already, and they decided it was fair and square and inside the law.

Mr. MORRILL. Now he asks you whether you believed it to be right to go there and anticipate the legal judges and keep them out of their positions and organize yourselves.

The WITNESS. That was my understanding at that time, that that was inside the law, on the authority of Mr. Hodges and Mr. Rice.

Mr. MORRILL. That you believed you had a right so to do?

The WITNESS. That I believed.

Mr. MORRILL. And that was what you undertook to do?

The WITNESS. That is what I undertook.

Mr. MORRILL. That covers the ground of the gentleman.

Mr. BARNES. Yes, sir. (To the witness.) How long after that was it before you discovered that that view was incorrect?—A. I ascertained that shortly after the legislature met.

Q. Did you ascertain it while you were applying for admission into the legislature?—A. No, sir.

Q. Did you believe, all the time the contest was going on in the legislature of Arkansas, that you were in good faith entitled to your seat?—A. There was no contest.

Q. You stated in your direct examination yesterday that you had a conversation with General Catterson in reference to his right to use the military forces at the arsenal at the city of Little Rock, did you not?—A. He stated that to me.

Q. You stated also that he informed you that he had a dispatch from the President of the United States authorizing him to use force, did you not?—A. I believe so. I think he told me that the commander of the arsenal had received a dispatch to put his troops at the disposal of the marshal. I think that was it.

Q. Did he not tell you that he had a dispatch to that effect himself?—A. Yes, sir; I believe he did.

Q. You stated it?—A. I believe so. It is correct, if I stated it.

Q. Did you not state that he gave as a reason why he could not sho you the dispatch then that it was at home?—A. I believe I asked hi for the dispatch. I am quite certain of that.

Q. What was his response?—A. I did not see the dispatch.

Q. What was his response to you when you asked him to let you se the dispatch?—A. I am not certain. This dispatch business was mixe up anyhow.

Q. When and where did that conversation occur?—A. I think on th day of election.

Q. What time of the day; does your recollection serve you?—A. saw General Catterson several times. I do not know exactly what tim it was.

Q. Was any person present with you and Catterson when you ha that conversation?—A. Not that I remember.

Q. Can you recall to your mind the place?—A. I believe it was aroun the voting-place.

Q. Do you mean to be understood that General Catterson carried ou the agreement that you referred to with Hodges, to conduct the Thir ward precinct polls?—A. I remarked before, this morning, that I wa not quite certain that General Catterson was to take charge personall but to keep general supervision.

APPENDIX TO A. K. HARTMAN'S TESTIMONY.

The following appendix to Mr. Hartman's testimony is taken from th report of "the committee on behalf of the senate, who were authorize to act in conjunction with a like committee on behalf of the house, i relation to election frauds in Pulaski County, Arkansas, at the Novem ber election, 1870," as printed by authority of the legislature of Arkan sas:

A. K. Hartman testifies as follows: I am a citizen and registered vote in the First ward, city of Little Rock, Arkansas, and was mayor of sai city at the time of the late general election, held on the 8th day of No vember last past. I was present at the polls or places of voting, in and fo the First ward, on said day of election. On the night before said electio I patrolled the city after midnight. Mr. Johnson called me at the hous about 6 o'clock on the morning of the day of election and, as deput sheriff, said he expected trouble, and wanted me to go with him, and did so; am not certain as I went exactly with him, but think I went afte him; I called for no one on my way but went alone. Mr. Kramer, Mr Reichardt and others were there when I arrived, or came right after me I was present when judges were elected in front of the building in whic the election was to be held; it was exactly 8 o'clock; they were nomi nated by a colored man by the name of Hodges. I administered th oath to the judges myself on presentation of county clerk's certificate they were named, respectively, Frederick Krull, Colonel Foster, an James Bates; I saw Colonel Foster about 3 or 4 o'clock that sam morning at his house; I knocked on the door, he came out, and w went into a saloon and took a lunch, then we walked up Markhan street, and we separated, and I went home; I did not see him agai until about the polls. When I first arrived at the polls I saw Mr Reichardt and spoke with him, and he told me he would be one of th judges of the election, and would see that everything would be fair this was about daylight.

Q. Are you aware that said Reichardt, or any of the judges appointe by the board of review for the First ward, refused to perform the dutie

for which they were appointed?—A. I don't know whether they did or not.

Q. Did you, at any time previous to said day of election, have any knowledge or information concerning the intention of any person or persons, in any manner whatsoever, to prevent the judges of election, appointed by the board of review of Pulaski County, from the performance of their duties on the day of said general election?—A. No, sir.

Q. Did you, at any time previous to said day of election, have any communication with any person or persons concerning any plan by which the judges appointed by the board of review might be superseded or substituted by other men who should act as judges of election in their place?—A. No, sir.

Q. Were you aware, at any time before the disclosure of the conspiracy on the said day of election, that any attempt was expected to be made by any person or persons to obtain possession of the polls or voting-places in said county, or any part thereof, or of the city of Little Rock?—A. No, sir.

Q. Were you a candidate for a seat in the lower house of the general assembly at the time of the late general election?—A. I believe I was.

Q. Do you know any reason why the judges were elected in the first ward by the people on the ground when judges had been already appointed under the law, and were present, ready to act?—A. The deputy sheriff stated to the crowd that there were no judges present to deliver the poll-books and ballot-box to, and it would be necessary for the people to elect judges.

Q. Did the deputy sheriff go to the building in which the election was to be held to see whether the judges were there or not?—A. I don't know.

WASHINGTON, *February* 2, 1872.

E. A. FULTON sworn and examined.

By Mr. BARNES:

Question. State where you reside.—Answer. At Monticello, Drew County, Arkansas.

Q. How long have you resided in Arkansas?—A. Since 1866.

Q. To what political party do you belong?—A. The republican party.

Q. Were you at any time a candidate for the legislature of Arkansas; and, if so, when; and were you, or not, elected?—A. I was a candidate in 1870 for the legislature, and was elected, and represented Drew County in the twenty-second senatorial district.

Q. How many members were elected in 1870 from your senatorial district?—A. Six representatives.

Q. How many from your county?—A. Three.

Q. What counties composed your district at that time?—A. Ashley, Drew, Chicot, and Desha.

Q. Were you nominated and elected as a republican?—A. Yes, sir.

Q. Were all the representatives from your district republicans?—A. Yes, sir.

Q. Were the candidates nominated in a regular convention; and, if so, name them?—A. They were nominated in a regular convention. The names were: Baldwin, from Desha; Goodwin, from Desha; Harris, from Ashley; Preddy, Marr, and myself, from Drew.

Q. Did you have any other convention before the election by which any of the candidates first nominated were forced to withdraw and

others substituted? and, if so, state what share Powell Clayton had i bringing about the second convention; state what he did and said i reference to said convention, and his intention to be elected to th Senate of the United States, and the means by which he said he ir tended to secure his election, and all you know upon these matters.-A. There was a convention called by the sheriff of Chicot County after we held a regular convention, to meet in Monticello, I think, o the 13th day of September, 1870, about one week or seven or eight day after the first convention. At that convention Governor Clayton an Colonel Lewis appeared, and Governor Clayton stated to me that it wa claimed that the first convention was not legal, and, second, that ther were men nominated at the first convention who were fighting his ad ministration, and that they proposed to make other nominations, an get men on the ticket who supported his administration and him. asked him what objection there was to the men first nominated; whethe they were not republicans. He admitted they were, but said that the were fighting him—that was the term used—and that he did not wisl to have them in the legislature; that he wanted men there who wer sustaining him and his administration. He asked me whether I wa going to take any part in the convention. I told them that I though not; that we had held our convention, and made our nominations, an I thought it was all legal, and that I did not care to take any part i the convention then to be held. He then said to me that there would b other nominations made, and other men would be put on the ticket, an that that ticket would be elected. Thinking that there was no chanc for the ticket then in the field, I then consented to compromise, and pu other men on the ticket who were favorable to him, (that is, some; h did not demand that the whole ticket be taken off;) and who would agre to support him and his administration.

Q. Support him for what?—A. I understood for United State Senator.

Mr. BOWEN. I object to what the witness understood. Unless Gov ernor Clayton said that, I do not want that to go on the record.

Mr. MORRILL, (to the witness.) Are you stating what you understoo him to say?

The WITNESS. I stated that I understood him to mean that he was candidate for the United States Senate; he did tell me that, under cer tain conditions, and that he wanted men there who would sustain hin for that position; he told me that he would like to have me on th ticket, but that I would have to sustain him.

Mr. MORRILL. Answer the whole question.

By Mr. BARNES:

Q. Tell all that occurred between you; what was said in reference t what was to be done; what you agreed to do, if you made an bargain with him in reference to matters of that sort.—A. I thei consulted with a man who was on the ticket with me, and he tol me that he would agree to do anything that I said. I told hir that I thought the ticket could not be elected as it was, and he told m whatever compromise I made he would stand up to. And then I wer to Dr. Lewis and Governor Clayton, and made the proposition to mak a compromise and put on his men; at the same time I agreed to vote f him for the United States Senate.

By Mr. MORRILL:

Q. What do you mean by putting on his men?—A. Taking down m who were opposed, and putting on men who were in favor of him.

Q. Putting them on your own ticket?—A. Reconstructing the ticket.

Q. Was the convention holden under the sheriff's call?—A. No, sir; he did not appear. He claimed to be chairman of the central committee for the district.

Q. Were nominations made at that new convention?—A Yes, sir; under the compromise. Some were new nominations; but they left some on the ticket, among the rest myself.

Q. Were the new nominations those that were agreed on by you and Governor Clayton?—A. Yes, sir.

Q. And that constituted the ticket which was supported?—A. Yes, sir.

By Mr. BARNES:

Q. If there was any further agreement in reference to his election to the Senate of the United States, and in reference to the removal of Lieutenant-Governor Johnson in connection with that understanding or agreement, tell what it was?—A. Governor Johnson was reported to me to be a democrat. I did not know anything about his history at the time.

Q. Reported by whom?—A. By Governor Clayton and all the rest of the gentlemen that were supporting Governor Clayton, that Mr. Johnson, the lieutenant-governor, was a democrat. I told governor Clayton that if that was the case, inasmuch as he had to take his place as governor if he went to the Senate, I did not care to support him for United States Senator, and would prefer to have him remain as governor. He then told me that he would see that Lieutenant-Governor Johnson was out of the way; that he would be put out before his election. I told him then that if that was the case I should vote for him for United States Senator.

Q. Did that constitute a part of your agreement?—A. Yes, sir.

Q. In what way did he say or was it understood between you that he would get rid of Johnson as lieutenant-governor of the State, and who was to be substituted in his place?—A. Nothing was said about who was to be substituted, except that some man was to be substituted who was working in harmony with his administration. There was no name called. The charges against Lieutenant-Governor Johnson were that he did not qualify within the time required in the law, and that they were going to put him out.

Q. Did Clayton say by what means or agree as to what means he would employ to accomplish the end?—A. I think the case was then in the supreme court and he said that the supreme court would put Johnson out; at any rate he would be put out; that he would be dispossessed of that office.

Q. Was there any other objection to Governor Johnson urged by him at that time except that he was a democrat, and was not working in accord with his (Clayton's) administration?—A. That was all. There was nothing else except that he had not qualified in time. They charged that he had not qualified within the time specified by law after his election.

Q. Was the ticket agreed upon at the last convention elected?—A. Yes, sir.

Q. Were you in favor of Governor Clayton for Senator prior to that agreement?—A. I never was in favor of him.

Q. Whom were you in favor of before that time?—A. Senator McDonald. I was pledged to vote for McDonald by the regular convention.

Q. Were you present at the organization of the legislature in January, 1871?—A. I was.

Q. Did you witness the organization of the legislature at the time mentioned, and did you participate therein?

Mr. BOWEN objected to the question.

The committee overruled the objection.

A. Part of it, I did.

Mr. MORRILL, (to the witness.) State what connection Governor Clayton had with the organization in any way.

The WITNESS. I do not know that he had personally any connection with it; he was not on the ground that I saw; I do not know that he personally did anything at the house there to shape the organization.

Q. State what were the relations, at the time of the organization of the legislature, between Robert J. T. White and Governor Clayton; and what was done by them, or either of them, in furtherance of their design to organize the legislature of the State in the interest of Clayton?—A. I know that Governor Clayton and the secretary of state were working in harmony; they were friends, and were working in harmony; Mr. White was sustaining Mr. Clayton and his administration.

By Mr. NORWOOD:

Q. How far do you mean to say that Governor Clayton and Secretary of State White were in complicity in the action taken as to the organization of the legislature?—A. I do not know except from their actions; I know that they acted together and sustained each other; that is what I mean by their working in harmony.

By Mr. MORRILL:

Q. State all the particulars where they acted together?—A. In a political way, Mr. White sustained Mr. Clayton.

By Mr. BARNES:

Q. Do you know of their being in caucases together?—A. I saw Mr. White and Governor Clayton going up to the caucus that was being held just previous to his election. I attended the same caucus. I saw Governor Clayton and Secretary White going up-stairs. The republicans who were not working in harmony with Mr. Clayton were not admitted there. I was passing the door, though, and saw these men attending the caucus.

Q. Did you or not see them in frequent consultations together?—A. I saw them together very often.

Q. About the time of the organization of the legislature?—A. Yes, sir; before and after.

Q. If you know that the secretary of state withheld the names of members returned as elected to that legislature state it, and what names were withheld?—A. I know that certain republican members made their appearance on the floor with certificates of election; and when the roll of members was called their names were left out—I mean the roll sent in by the secretary of state. When that roll was called these names were left off, and the members were on the floor with certificates in their hands, and then that roll which was presented by the secretary of state was adopted as the roll of members.

By Mr. MORRILL:

Q. Whom were those certificates from?—A. From the returning-officer of the district—the county clerk, I believe.

Q. Does this relate to the county of Pulaski?—A. The counties of Pulaski and White—the tenth district.

By Mr. BARNES:

Q. What other members held certificates who were upon the floor and not reported?—A. I think the members from Hot Springs County made their appearance too, with certificates.

Q. And their names were not reported?—A. No, sir.

Q. Members from any other county or district?—A. I do not recollect now what other counties.

Q. Give the names of the members who appeared with certificates of election upon the floor demanding admission.—A. From the tenth district, consisting of Pulaski and White Counties, J. L. Hodges, A. K. Hartman, Hagan Green, and Jesse Butler.

Q. Do you remember the names of any other members withheld?—A. I am not familiar with the other names, except Mr. Lane; I forget his full name. He was from Hot Springs County, or that district; I do not remember whether he was from that county, but he was from a county in that district.

Q. Do you remember the names of any other members?—A. I think John Sumpter was there from the same district.

Q. Do you remember the names of any other members from any other county or district in the State?—A. I do not.

Q. Were not the persons you have named excluded from the hall of the house of representatives in that organization?—A. Yes, sir.

Q. Forced to leave?—A. They were not reported as members of the house, and were obliged to withdraw, and did.

Q. Who said that?—A. The speaker of the house.

Q. Who was the speaker of the house officiating at that time?—A. Mr. Tankersley.

Q. Charles W. Tankersley?—A. Yes, sir.

Q. The gentleman who gave his testimony a few days ago here in favor of Governor Clayton?—A. Yes, sir.

Q. Is it or not true that Frank Wright, the old clerk of the house, was denied admission to the hall and kept out by force?—A. I know he was kept out.

Q. Did he not go there and demand his right to enter and organize the house?—A. Yes, sir.

Q. How was the house then organized; how did Tankersley get in the chair, and what did Clayton's friends then do? How many men were in the house at the time Wright was denied admission?—A. There was a guard at the door. Police were stationed at the door.

Q. Police of the city?—A. Yes, sir, the police of the city, and Colonel Oliver, sheriff of the county.

Q. A friend of Clayton?—A. Yes, sir. When I got in I think there were about 25 or 30 members in the house, and Mr. Tankersley had the chair, and they were electing a clerk.

Q. Who was he?—A. His name is Cohn.

Q. Was he one of the members of the legislature?—A. Yes, sir.

Q. Elected as clerk?—A. Yes, sir.

Q. Was he a Clayton or anti-Clayton man?—A. A Clayton man.

Q. Did he hold that position during the sitting of the legislature?—A. No, sir; he was elected temporarily.

Q. Who was afterwards elected clerk?—A. A man named Richards.

Q. What party did he belong to?—A. He belonged to what was known as the Clayton party.

Q. Was he a member of the legislature?—A. No, sir.

Q. State what Tankersley did.—A. I was among the first that got in I did not see him take the chair, but I got there very soon afterward and he was in the chair. Of course I cannot state how he got there.

Q. Was he elected after you got there?—A. No, there was no vot cast after I got in for chairman. I got in about the time they wer electing a temporary clerk.

Q. Was he then assuming to act as the speaker of the house whe you got in?—A. Yes, sir.

By Mr. MORRILL:

Q. You do not mean that he had been chosen speaker, but that h was temporary chairman, pending the organization?—A. He was in th chair, and was addressed as "Mr. Speaker."

By Mr. BARNES:

Q. Was he afterward regularly elected?—A. Yes, sir.

Q. How long after you got into the house?—A. I cannot say, exactly; it was some time in the afternoon, though; I think, perhaps, an hou or so.

Q. Was this report of the list of members made by the secretary o state to the house after it was regularly organized, or before Tankersle was elected?—A. I will not be sure. I think, though, this list was in troduced before Mr. Tankersley was elected regular speaker. That is my recollection.

Q. And before any regular organization of the house?—A. Yes, sir the house was not really organized till evening.

(Mr. Barnes here offered in evidence so much of the journal of th house of representatives of the legislature of Arkansas as related t the temporary organization of the house, and the report of the secretar of state, White, referred to by the witness. It is hereto appended marked A.)

By Mr. BARNES:

Q. Do you know anything in reference to the organization of th house of representatives of the legislature of Arkansas, at the time yo named, in addition to what you have stated?—A. I do not recollec anything else, except that the regular nomination and election of diffe ent officers of the house took place after the list of the secretary o state was put upon the roll.

By Mr. MORRILL:

Q. How many members were in the hall when you went in?—A. think not over twenty or thirty.

Q. What is the whole house?—A. Eighty-two.

Q. This man was then in the chair?—A. In the chair when I got t the door.

Q. You say that door was in the custody of the sheriff, and wh else?—A. It was in the custody of the sheriff; I think Secretary Whit was there, and also a deputy sheriff by the name of Hughes, I think.

Q. Guarding the door?—A. Yes, sir.

Q. Was the secretary of state at the door?—A. Yes, sir; Robert J T. White.

Q. Was he standing at the door?—A. Yes, sir; with the sheriff an deputy sheriff.

Q. In what relation was he standing at the door?—A. I do not kno

what he was there for. He was letting in members, I know; Oliver was on one side of the passage, and he on the other.

Q. You speak of members who were afterwards upon the floor of the house who were expelled. How did they get in? Were those in when you went in, or did they get in afterwards?—A. I think Captain Hodges got in a little before me, and so of Hagan Green. I think they all got in about the time I did, or a little before, perhaps.

Q. Did they pass through this door?—A. Yes, sir.

Q. And those men were afterwards ruled out?—A. Yes, sir.

By Mr. MORRILL:

Q. State anything you know in regard to any corrupt arrangement on the part of Governor Clayton with anybody tending to his election to the Senate.—A. I know that his friends tried to induce me to vote for him, and offered me a position if I would vote for him and act with his wing of the party, right straight through.

Q. State who made that offer to you.—A. Judge Bowen.

Q. Judge Bowen who is here as counsel?—A. Yes, sir.

Q. What did he offer you?—A. I had a conversation with him at the Metropolitan Hotel, in room number eleven, I think, before his first election. At that time he told me that he wanted me to act with them; that he wanted me to vote for the election of Governor Clayton to the United States Senate; if I would do so I could be put as station-agent of the railroad known as the Mississippi, Ouachita and Red River. The road goes through Monticello, or was contemplated to go through there. The road was not there at that time; and he told me if the road did not get there by the time the legislature adjourned, I could be put upon $100 a month until it got there, and when it did get there I could have the position of station-agent of the road at $100 a month.

Q. Anybody else?—A. About the time R. S. Gantt sent in his letter to the house he told me that there was a contract made with them, or between them (the democratic members) and Governor Clayton, that he was to give Mr. Edwards the certificate of election to Congress, and that they were to support him for the United States Senate; and that he had a conversation with some friends of Clayton, and they talked as though they did not propose to come up to their contract, and he sent in this letter demanding that they should stand up to their contract in that respect. There were other democrats around town who told me there was a contract made of the same kind. Mr. Townsend, for instance, a democrat in town there, told me there was a regular contract made between Mr. Clayton and his party that they were to support him for the United States Senate, and that their members were to have their seats on the floor of the house.

By Mr. BARNES:

Q. Explain what members you mean.—A. The democratic members who got their seats.

Q. From Pulaski County?—A. From that district—Howard, House, Chamberlain, and Whittemore. That, I think, was about the substance of the conversation.

Q. Explain to the committee who Robert S. Gantt was and what letter you refer to?—A. It was a letter which was sent into the house. Robert S. Gantt is a democrat and was a candidate for the legislature.

Q. Claiming a seat therein?—A. Yes; he claimed a seat in the house. He sent the letter from the fact that Governor Clayton had not in good faith carried out his contract with them. He told me that he and Mitchell, who were candidates for the house, withdrew the contest for

the consideration that Clayton was to give Edwards the certificate an that their members were to be admitted to seats on the floor of th house for the same consideration.

Q. Look at the letter of Gantt which appears in the journal of th house of representatives and say whether that is the letter, and giv the day it was offered from the journal.—A. This is the letter. It ap pears in the journal of Friday, January 27, 1871.

By Mr. MORRILL:

Q. You say you were to have $100 a month up to a certain time if th road did not get along?—A. I was to be put under $100 a month afte the legislature adjourned up to the time that the road got there. I wa to have that, whether the road got there or not.

Q. When the road came there you were to have a position?—A. Th position of station-agent.

Q. Who was to give you that?—A. General Bowen.

Q. Had Mr. Bowen the control of that, do you understand?—A. Yes sir; he was president of the road.

Q. Did you get your $100 after the legislature adjourned?—A. No sir.

Q. Did you ever call for it?—A. No, sir.

Q. Did you get your position?—A. No, sir.

Q. Why not?—A. I did not do what they wanted me to do.

Q. You did not keep your part of the bargain?—A. No, sir.

By Mr. BARNES:

Q. What did Bowen say in reference to his authority to make thi arrangement for Governor Clayton; did he or not state that it was b the authority and sanction of Clayton?—A. He told me in regard t other positions that I could have.

Mr. BOWEN, (to witness.) He asks about this position.

The WITNESS. About this particular position, he did not say tha Governor Clayton had anything to do with it, except that he wa working for Clayton and offered me this inducement to vote for him fo United States Senator and work with them. The term used was "worl with them."

By Mr. BARNES:

Q. Was not Judge Bowen then one of the the judges of the suprem court of the State of Arkansas?—A. Yes, sir.

Q. Was he not notoriously known and understood to be, togethe with Judge McClure, the regular managers and leaders of Governo Clayton in carrying out this enterprise?—A. Yes, sir; I understoo him to be "fixing up the job" to carry it through.

Q. Which one of them had charge of the house and which of th senate?—A. General Bowen was at the house most of the time on th floor.

Q. Was Judge McClure then upon the bench of the supreme court o the State?—A. Yes, sir.

Q. Did they have anything to do with lobbying with members, an did you see them there frequently, or in consultation with Clayton?—A They were there most of the time, at least. I know more about Mr Bowen than Mr. McClure, because Mr. Bowen was in the house almos all the time, in the lobby and on the floor. I know that I made objec tion myself several times to his lobbying on the floor of the house.

Q. You made objection several times to Bowen's lobbying upon th floor of the house?—A. Yes, sir.

By Mr. BARNES:

Q. State what you know in reference to it.—A. I do not know, except what Judge Bowen offered me and told me by whose authority he offered it, and so on.

Q. State what he said.—A. He told me at the time I had the talk with him in regard to the position on the railroad, that if I did not want that, any appointment in my county that Governor Clayton did control I could have, and that if I doubted his sincerity he would produce it in writing from Governor Clayton. That was at the same time, the same night that he offered me this position on the railroad. Other men came to me with money, saying it came from Judge Bowen.

By Mr. NORWOOD:

Q. State who were the parties that came to you.—A. A member of the house named Herbert Marr, who was attending the caucuses of the Clayton men. They never let Brindle-tails in their caucuses. I had no means of knowing, except when I saw them passing in and out.

By Mr. BARNES:

Q. Tell what Marr, the member of the legislature, told you that Bowen offered——

Mr. BOWEN. Will the committee permit this hearsay to go on?

Mr. BARNES. We propose to connect it with Clayton.

Mr. NORWOOD. If it is not connected it can be stricken out hereafter.

Mr. BARNES. I ask what the member referred to offered this witness; to tell what the member said?

Mr. MORRILL. The witness may answer that question.

The WITNESS. Mr. Marr came to me about the time that the contest for the seats of the members from Hot Springs was going on, and told me that Judge Bowen sent him to me to get my vote to retain the men that were then holding the seats, and after further conversation I refused to do it, saying the evidence was against them, and I could not vote to retain them. He then told me that he had authority from Judge Bowen to offer me $3,000 to vote to retain those men. I refused to take it, and he then asked me whether $4,000 would be any inducement to me. I told him no; $10,000 would not, and that I did not want him to talk to me any more about it.

Q. When and where was that?—A. That was during the time, or about the time, the Hot Springs case was up in the house for consideration, and just a day or two before the vote was taken.

Q. And before Clayton's first election to the Senate?—A. No; after his first election.

Q. State whether or not Mr. Marr was an active supporter and acknowledged leader and friend of Governor Clayton, after he got to the legislature.—A. Yes, sir; he was.

Q. Was he or not appointed, soon after the adjournment of the legislature, to one of the most important offices in the State?—A. He told me that he was appointed, before the legislature adjourned, to the place he afterward took charge of.

Q. What did he tell you about that?—A. He said that Governor Clayton had appointed him.

Q. What position was he appointed to by Governor Clayton, and did he afterward receive that position?—A. He received the position afterward; it was circuit superintendent for schools for the seventh circuit, I think, but I am not certain about the number of the circuit.

Q. It was circuit superintendent of one of the school districts in the State?—A. Yes, sir.

Q. What is the salary of the circuit superintendent of the school dis trict?—A. Three thousand a year.

Q. He told you that there was an arrangement between him and Gov ernor Clayton, before the election of Governor Clayton to the Senate that he was to receive this position?—A. Yes, sir; he told me that it a talk in regard to his getting that position. He said that I might jus as well have something too; that I was a fool that I did not take some thing; that he had got a position as circuit superintendent at $3,000 a year.

Q. Who appointed him to that position?—A. I do not know who commissioned him, but he told me, before the legislature adjourned, tha he had his position from Governor Clayton.

Q. You do not know whether Clayton or Governor Hadley, his suc cessor, commissioned him?—A. No.

Mr. BOWEN. The committee understand that my objection applies to the whole of this.

Mr. NORWOOD. Certainly; and the understanding is that unless it be connected with Governor Clayton it will be stricken out hereafter.

Q. (By Mr. BARNES.) Did Marr receive any other appointment after ward?—A. Not that I know of. He procured several appointments.

Q. Procured them from whom?—A. From the governor.

Q. For whom?

Mr. BOWEN. What governor?—A. I do not know what governor. He said he procured the appointment of Chestnut as sheriff for Lincoln County, a new county taken off our county, and an appointment as assessor for Captain Henry Berks, of our county.

Q. (By Mr. BARNES.) Did you have any conversation, during the sit ting of the legislature with Governor Clayton, either before or after his election to the Senate, in reference to his obtaining his seat in the Sen ate of the United States; and, if so, tell the committee what he said.—A. I had a conversation with him before his first election.

Q. State the whole of that conversation if it was in reference to his election in any way, or bore upon that.—A. In that conversation he asked me whether I was ready to carry out my promise made to him at Monticello before the election. I told him I was if he was ready to carry out his portion of it. I had promised to vote for him on condition that Johnson was not to become governor. He then told me that I mistook what he said in regard to having Johnson out of the way; that he promised me to have Johnson out of the way so that he would not be come governor before he accepted the position of United States Senator—not before his election. I did not understand that I could vote for him then, as I had understood him differently. He then said that he had made up his mind to run for the Senate—at least he was going to run for the Senate, and that he was going to be elected, and that he would like to have the republican vote, and especially the colored vote.

Q. You claim to be a colored man yourself?—A. Yes, sir. He would like to have as large a colored vote as possible; that if he could not get the republican vote to elect him he would get sufficient votes to elect him.

Q. Did he say by what means he would get those votes?—A. No, he did not say by what means; but he said just as I stated it, that if the republicans did not vote for him sufficient to elect him he would find votes to elect him; that he was going to be elected.

Q. Was this conversation before or after the statement of Gantt to you in reference to the contract he detailed as having made with Clay ton to issue the certificate to John Edwards?—A. This was before.

Q. Before this arrangement and before the letter sent into the house? —A. It was before the meeting of the legislature; I think it was the Saturday before.

Q. Have you detailed all he stated at that time in reference to his election to the Senate of the United States?—A. That was about all. It was the substance.

Q. Did you have any further conversation with him in reference to the election or the means by which he procured his election?—A. No, sir.

Q. Did you have any conversation with Dr. A. K. Hartman, who was upon the republican ticket, and one of the members excluded from the organization of the house, from the county of Pulaski?—A. Yes, sir; frequently.

Mr. BARNES. (To the witness.) State what Hartman said to you, and when it was.—A. I was with Hartman very often before the meeting. I was there a week before the legislature met, and during that time had several talks with Dr. Hartman in regard to the legality of the election. It was claimed there by the Clayton men that there had not been a fair election, and on that subject I talked with Dr. Hartman and the other members a good deal in regard to the legality of the election.

Q. What did Hartman say in those conversations in reference to the legality of that election and his right to the seat?—A. He always told me that the election was perfectly fair, and that they were elected by a large majority; and that there would be a contest, he expected, for their seats, and he wanted me to do everything I could in the house to get them their seats.

Q. Did he have any conversations with you after he was denied his right to a seat in that body, touching his right to hold his seat and the validity of the election; and, if so, what did he say?—A. He was talking with me almost every day in regard to it for some time, urging me to see members of the committee.

Q. During the sitting of the legislature?—A. Yes, sir.

Q. After he was denied his right?—A. Yes, sir; for several days, perhaps two weeks afterward, he urged me to see members of the committee and get them to investigate the case and make a report upon it. He thought they ought to have their seats, and urged me to do what I could with the committee to get a report on their case.

Q. What did he contend for, that he was or was not entitled to his seat?—A. He contended that he was elected and had his certificate.

Q. Did he, at any time, pretend to say to you or admit that the polls had been usurped in the First ward of the city of Little Rock or anywhere else, or that there was any arrangement or agreement between him and Hodges, Milton Rice, John Whytock, and others, by which the election in Pulaski County was to be conducted by force, or fraud, or any sort of unfairness?

Mr. BOWEN objected to the question.

The committee overruled the objection to the substance of the question, but suggested that it be modified so as to inquire of the witness what Hartman said to him in reference to any arrangement with the persons named, relative to the election of November, 1870, or any fraud or unfairness in conducting the election.

Mr. BARNES. Let the witness answer the question put in that way.

The WITNESS. Mr. Hartman told me that the elections were all fair; that in regard to the charge that they had elected new judges and taken charge of the polls it was all false; that where there had been new judges elected it was in cases where the regular judges did not

appear in time, and that there was nothing on their part whate done which was illegal on the day of election, and that his election v fair.

Q. (By Mr. BARNES.) Did he or not say that the regular judges a officers of election appointed for the First ward of the city of Little Ro in which he lived, did not appear until after the hour of 8 o'clock in t morning?—A. He did not specify the particular place, but said that of the polls on election day in the county were fairly and regularly c ducted; that where there were other judges elected, it was done fr the fact that the other judges appointed by the assessors did not appe

Q. Did he or not disclose any bargain or arrangement made with h and James L. Hodges or others, by which the polls were to be usur and the election carried by fraud on the part of his friends?—A. never mentioned any one's name at all in regard to taking charge of t polls.

Q. Did he or not say that there was no truth in the charge of t Clayton men, that the election was unfair on the part of the Brind tails?—A. He said there was no truth in it; that the election was fa

Q. Did he or not speak in unfriendly terms of Governor Clayton t A. He did.

Q. What did he say in reference to him?—A. He denounced Goverr Clayton and all his followers there as thieves and scoundrels.

Q. Did he particularize any other man except Governor Clayton did he call the names of any other men in connection, or merely his f lowers?—A. In general terms, those working with Governer Clayt

Q. How long did he continue to denounce Governor Clayton and h associates in the way you have named?—A. I am not sure as to t time. It was about the time that Governor Clayton was elected to t Senate the second time that he came out, wrote a letter and made speech in favor of Governor Clayton and denouncing those whom had been working with before.

Q. Did you or not actually bargain with Bowen to vote for Clayt for the considerations you have named? Did you make the barga with him, or not?—A. I did not give him any satisfaction in regard that. I did not promise whether I would or not. I told him I wou see about it.

Q. Do you or not know that many of the members of the legislatu of Arkansas who voted for and supported Powell Clayton for the Sena of the United States, received important and lucrative offices or po tions from Clayton, or by his procurement, directly after his election? A. Almost all the men that supported him got an office of some kind

Q. Can you name the men who were prominent in his support, eith in or out of the legislature of Arkansas in 1871, that received importa offices or positions at the hands of Governor Clayton, or by his procu ment, soon after the adjournment of the legislature?—A. I cannot swe positively by whose procurement it was, but I can swear that most the men who supported him for the United States Senate got offices.

Q. Name as many of the men as you remember who did receive i portant offices, and the offices they received.—A. I cannot name the all; I could name several.

Q. Do so.—A. Judge Preddy, of Drew County, was appointed coun judge; Herbert Marr, of Drew County, circuit school superintenden Conway Barbour, of Chicot County, assessor of the county; G. H. Jc lyn, probate judge of the county of Lincoln.

Mr. NORWOOD. (To the witness.) Take the paper which I hand y and run your eye over that column of names and state, of your ow

knowledge, how many of those parties, if any, received the appointments stated in the paper.

The WITNESS. There are some here that I am not familiar with. I do not know exactly all, but I know a great many.

Mr. NORWOOD. Run your eye down the newspaper column, and those that you know call out. Call the names you know in addition to those you have mentioned.

The WITNESS. There is A. Gallagher, appointed justice of the peace; D. P. Belden, appointed justice of the peace in Hot Springs County; A. Hemingway, appointed commissioner to locate the county site of the new county of Lincoln; there is Mr. Martin, I did not know him; S. W. Mallory was appointed commissioner of claims; E. D. Rushing, justice of the peace; Mr. Sarber is reported to have had an appointment—I do not know about that; J. M. Alexander was appointed justice of the peace in Helena, Arkansas; Conway Barbour, I have already mentioned, appointed assessor of Chicot County; E. H. Chamberlain was appointed justice of the peace in Little Rock; M. A. Cohn was appointed circuit superintendent—he was registrar of the county before; A. O. Espy, justice of the peace; J. P. Grady, appointed sheriff of Crawford County; George Haddock was appointed assessor of Clark County; E. G. Hale was appointed coroner of Bradley County; W. C. Hazledine was appointed circuit judge; G. H. Joslyn appointed county and probate judge of Lincoln County; Herbert Marr appointed circuit superintendent of my county, Drew; Adam Johnson, I do not know of him of my own knowledge; R. S. Parker, I think, was appointed justice of the peace, but I am not sure; Carl Polk, or Pope, was appointed justice of the peace afterwards; C. W. Preddy was made county and probate judge of Drew County; G. W. Prigmore was appointed circuit clerk of Jefferson County; J. A. Robinson, appointed assessor of Desha County; T. G. T. Steel, appointed circuit judge for one of the circuits, I do not know which now; C. C. Waters, appointed circuit judge, first circuit, February 23, 1871; E. R. Wiley, appointed justice of the peace, June 28, 1871. I am calling only such as I know to be acting in these places who were not before, that I know of. C. W. Tankersley was appointed superintendent of the penitentiary.

By Mr. MORRILL:

Q. Do you know about the dates these were appointed?—A. I do not; but I think all after the legislature adjourned.

By Mr. BARNES:

Q. Who succeeded Governor Clayton in the office of governor?—A. O. A. Hadley.

Q. What senatorial or representative district did he represent prior to his election?—A. The tenth.

Q. Where did he reside?—A. At Little Rock.

Q. What were the relations between them?—A. I understood Hadley to be a warm friend and supporter of Governor Clayton.

Q. Was he, or not, understood and acknowledged to be his main leader in the senate of the State?—A. I cannot go any further than to say that he was among the leading men who supported Clayton.

Q. (By Mr. BARNES.) Is it, or is it not, true that all the persons you have named were appointed about the adjournment of the legislature, or soon afterward?—A. I think they were.

Q. Is it, or not, true that a portion of those persons were appointed to positions just before Governor Clayton was elected to the Senate?—A. I do not know about that.

Q. In the conversation referred to in the Metropolitan Hotel, was not the whole and sole purpose of Mr. Bowen's conversation from first to last with you, with a view of having you act and continue to act with the republican party, and prevent your coalescing with the democrats in the legislature?—A. No, sir; it was not.

Q. Did I understand you to say that Mr. Bowen offered you the position which you referred to, at Monticello, in consideration of you voting ing for Governor Clayton for United States Senator?—A. Yes, sir; I will answer it more fully; that I was to vote for him and co-operate with him and his friends during the session of the legislature.

By Mr. BOWEN:

Q. Was there anything said in that conversation about an anticipated coalition between what were known as the brindle-tails, or a portion of them, and the democratic party in the legislature?—A. Not to me.

Q. For whom did you vote the first time for United States Senator?—A. Governor Clayton.

Q. Why did you vote for him?—A. Because McDonald withdrew from the contest.

Q. Were you obliged to vote for Clayton because McDonald withdrew?—A. No, sir.

Q. Were you pledged to McDonald?—A. Yes, sir.

Q. You say you were pledged to Mr. McDonald?—A. Yes, sir.

Q. When were you pledged to Mr. McDonald?—A. At the convention that nominated me.

Q. Who brought about that pledge? To whom was the pledge made?—A. There was a resolution passed in the convention instructing me.

Q. I understood you to say in your examination-in-chief that at the Monticello convention you pledged yourself to go for Governor Clayton.—A. Yes; provided he did certain things.

Q. What "certain things" do you refer to?—A. Oust Lieutenant-Governor Johnson, and leave a man there that would be satisfactory to us.

Q. The objection to Governor Johnson seemed to be that there was danger of him "Senterizing" the State, and giving it into the hands of the democracy, was it?—A. No; the objection to him seemed to be that he would not carry out the programme Governor Clayton had inaugurated.

Q. After you came to Little Rock, I understand you to say that you had a conversation with Governor Clayton about the election to the United States Senate?—A. Yes, sir.

Q. You told him you would not support him on account of Johnson being his successor as governor if he was elected Senator?—A. I told him that I was there ready to carry out my part of the contract if he was his.

Q. That was in regard to getting Johnson out of the way, and that you would not support him unless he did?—A. Yes, sir.

Q. How did it come that you did support him when Johnson was not out of the way?—A. Mr. McDonald withdrew, and I had a consultation with Mr. Mason and Mr. Webb from our district, and we decided in that conversation to vote for him.

Q. How did Mr. McDonald's getting out of the way as a candidate affect the succession of Governor Johnson?—A. It did not affect it at all.

Q. Why would you change your mind, then, and vote for Governor Clayton? Did not the same reasons exist when you voted for him that did when you said you would not?—A. The members from that district

had a meeting, and consulted over the matter, and concluded to vote for him, inasmuch as McDonald was out of the way.

Q. Was or not your true reason for telling Governor Clayton that you would not support him, that you favored McDonald's election to the United States Senate, and not that you based your objection upon the fact that Johnson would become Clayton's successor as governor?—A. I was always in favor of McDonald in preference to Governor Clayton for United States Senator. What I did in any other direction I did for policy's sake; and I did not consent to vote for him until we had a meeting of the members of the district, and we thought it was better. The reason I wanted Johnson out of the way was that Governor Clayton and his friends said to me in the beginning of the campaign that Johnson was a democrat. After I found out the history of Johnson I saw that his record was about as good for republicanism as Governor Clayton's. Then I did not care anything about that. I did not care whether he was out of the way or not, and I did not vote to put him out.

Q. Was or was not the fight made on Governor Clayton in that canvass by his opponents within the republican party on the ground that Johnson was not a safe man to be made governor.—A. I believe that was it.

Q. Did they seem to be apprehensive that he would Senterize the State?—A. I think he promised most of his friends that voted for him that he would put Johnson out of the way and put in a man that he wanted.

Q. That is not what I asked. I asked if the opposition to Governor Clayton by what are here called the Brindle-tails was not based upon that objection principally? Did they not say Clayton had made a good governor? Did they not contend that Clayton was too good a governor to leave the State, and that it would not do to turn the State over into the hands of Mr. Johnson, because he would sell out the party? Was not that the opposition made by the Brindle-tails?—A. Up to the election Governor Clayton was thought very well of by both Brindle-tails and Minstrels.

Q. That is not answering the question; I will state it distinctly.—A. They stated that he had made a good governor up to that time.

Q. Was not the particular objection urged publicly to the election of Clayton to the Senate, by his opponents in the republican party, the fear that Johnson was an unsafe man to leave as governor?—A. I believe it was at the beginning of the campaign.

Q. Did you not state it yourself frequently?—A. I do not know but that I did on the information I stated to you.

Q. Did you not take that position before you had any conversation with Governor Clayton on the subject?—A. No, sir; that is, not before this statement was made to me by his friends and by the republicans generally; a good many.

Q. Did you never state anything of that kind, or hear that objection urged against Johnson, before you saw Clayton at Monticello?—A. Yes, from some few.

Q. Republicans?—A. Yes, sir.

Q. In your examination-in-chief you spoke of Mr. Gantt telling you that Clayton was to give a certificate to Edwards in consideration of the democrats voting for Clayton for United States Senator; I ask you, now, if you know anything, of your own knowledge, about any such bargain?—A. All that I know is by this letter on record, and conversations with Gantt and other democrats in the city of Little Rock.

Q. Did you ever have any conversation with Governor Clayton ir gard to that trade or bargain?—A. No, sir.

Q. Do you know, of your own knowledge, anything about it?—. stated to you how I got my information.

Q. You have no other information except that?—A. No, sir.

Q. You spoke of Judge McClure and myself in connection with supposed leadership of Clayton's faction—he in the senate and I in house—and of your frequently seeing me on the floor of the house. ' you be kind enough to state to the committee whether there was other question before that house in which I was interested?—A. . not know in what questions you were interested. You were there r of the time lobbying with members on the floor.

Q. Was there not a very important bill in relation to the Mississi Ouachita and Red River Railroad pending in that legislature at same time?—A. Yes, there were several bills. There was a levee and there were others.

Q. Did you ever hear me say anything about the levee law?- Never to me.

Q. Did you ever hear me say anything about it to any one else?- No, sir, except your being on the floor lobbying with members.

Q. Do you not know that there was a very important bill in rela to the Mississippi, Ouachita and Red River Railroad, of which (pany I was president at the time, pending before the legislature?— cannot be certain about the time. I do not know what time is me I know that there was such a bill during the session.

Q. Do you mean to say that I was on the floor of the house lobb for the levee laws?—A. I wish the committee to understand this, whenever there was any important bill, that there were any bond that you were on the floor among the members, talking, every (almost, or the greater portion of the time.

Q. (By Mr. BOWEN.) Can you or not answer the question dire whether you meant to say that I was in there lobbying for the pas of the levee bill?—A. I have given my answer to that question.

Q. Can you or not give any more direct answer than that?—. guess not.

Q. You say, whenever there was any bill before the legislatur which there were any bonds I was on the floor of the house. State v bills were before that legislature that had any bonds in them except levee bill.—A. The levee bill; that I know of.

Q. Do you know of any other?—A. I cannot recollect any other now, except your railroad bill.

Q. Were there any bonds in the railroad bill?—A. I do not know

Q. You spoke of my always being there when there was a bill u relation to bonds. Be kind enough to state whether there was ever bill there which involved the issuing of bonds.—A. There were sev important bills; among the rest those two. I cannot recollect now v others.

Q. Did you vote for the levee bill?—A. I believe I did; I am not s I do not now recollect whether I was in the house the time the vote taken or not.

Q. You spoke of seeing Secretary White and Governor Clayto tending the caucuses together?—A. No, sir; I did not say that. I them together.

Q. Did you ever see them together at a caucus?—A. I do not k that I did. The republicans who were opposed to Governor Cla were not admitted into the caucuses; I stated that.

Q. Did you ever see Secretary White and Governor Clayton going into a room together where there was a caucus being held at any time?—A. I do not know that I did, together. I saw them going in there, though.

Q. Were you ever in that caucus yourself?—A. Yes, sir.

Q. More than once?—A. Yes, sir; after his first election.

Q. Were you attached to the faction known as the "Brindle-tail" faction at that time?—A. Of the republican party?

Q. Yes, sir.—A. Yes, sir; I belonged to the republican party in opposition to Governor Clayton.

Q. Did you ever see any other members of what is known as the "Brindle-tail" faction a tthe republican caucus?—A. I did; after Governor Clayton's first election.

Q. Did you ever see them before?—A. No, sir.

Q. Were you ever there before?—A. Yes, I was one night up there, but I was asked to get out. I was told it was a republican caucus. I went up and I was asked to withdraw.

Q. Was it not a republican caucus?—A. They claimed that it was.

Q. Was it or not; what do you say about it?—A. I did not stay there long enough to find out. That is what I went to see.

Q. About what proportion of those elected as republican members composed that caucas?—A. I cannot say now.

Q. Were there not five to one of the republican members elected to the legislature who attended that caucus?—A. No, sir.

Q. Was not a clear majority of the legislature in attendance on that caucus.—A. Yes, sir.

Q. How many republicans in the legislature remained away from this caucus you have just been speaking of?—A. I do not recollect now; all that opposed him.

Q. How many republicans voted against Governor Clayton for United States Senator?—A. I do not recollect now.

Q. Could you refer to the journal and tell?—A. I suppose I could.

Q. I hand you the journal of your house containing the vote at the first election of United States Senator. Please call off the names of the republicans in the house who voted against Governor Clayton then?—A. (Examining the journal.) I do not recollect. It is not set down here who did. I wish to state this: that on the first election most of the republicans voted for him because McDonald had withdrawn. Up to the time McDonald withdrew he had some twenty-five or thirty republicans with him, according to my recollection, who attended his caucuses.

Q. Did he withdraw before the first election?—Yes, sir. Democrats and republicans mostly voted for Clayton on the first election.

Q. In your examination-in-chief you said that Mr. Marr came to you and stated that he had been sent by Bowen to offer you $3,000 to vote on the Hot Springs case?—A. Yes, sir.

Q. Did you ever have any conversation with Mr. Bowen in regard to $3,000 for the Hot Springs case?—No, sir.

Q. Do you know anything about that except what Mr. Marr told you?—A. No, sir.

By Mr. BOWEN:

Q. You say that most of the men who supported Clayton got office?—A. Yes, sir.

Q. Do you know who appointed those men to office—whether Governor Clayton did or not?—A. I do not know; I did not see their commissions.

Q. Do you know of any arrangement by which Governor Hadley was

to appoint Governor Clayton's friends to office in consideration of the support of him as United States Senator, of your own knowledge?—A Not of my own knowledge.

Q. At the organization of the house of representatives you said th members from Pulaski district were present with their certificates?-A. I believe I did.

Q. You said that there was a guard at the door?—A. I said that the was police there, and the sheriff and deputy sheriff.

Q. What was that guard there for?—A. I do not know.

Q. Did you not state that it was for the purpose of keeping out th anti-Clayton men?—A. I did not state that.

Q. How many men did I understand you to say were within the ha of the house of representatives when you got in?—A. I think twenty five or thirty.

Q. Was Mr. Hodges in there at that time?—A. He got in there abou the time I did, or a little before.

Q. He was one of the Pulaski County men you referred to?—A. Ye sir.

Q. Did that guard attempt to prevent you going in there?—A. No, si

Q. Did you see them prevent any one who was a member from goin in there?—A. I do not know that I did; when I got there, there was considerable crowd. They were at the door. They let me in as soon a I got to the door. There was a general rush.

Q. Did you see them prevent any one from going into that hall wh pretended to be a member of the legislature?—A. I did not see.

Q. Did you not see men in that hall during the proceedings you hav referred to who were not upon the roll furnished by the secretary c state?—A. Yes, sir.

Q. Do you say that Mr. Tankersley was in the chair when you en tered?—A. Yes, sir.

Q. Was he in the chair as permanent speaker, or temporary chai man?—A. I think he was in the chair temporarily,

Q. Were you present at his subsequent election as speaker?—A. Ye sir.

Q. Was there any unfairness charged in regard to his permanent ele tion as speaker of that house?—A. Yes, sir.

Q. State what it was.—A. The unfairness was that the members wh appeared there with certificates could not get their seats in order to vot at the organization of the house.

Q. Did you have a certificate?—A. No, sir.

Q. How did you get in?—A. I was on the roll. I was one of th lucky ones.

Q. How did you come to be on the roll?—A. The secretary of stat put me there, I suppose?

Q. Is it necessary for a man to have a certificate to get into the legi lature of Arkansas?—A. I do not know. It was hard to tell what a ma had to have there; at least at that particular meeting of the legislatur One thing was necessary for him, I know—to be a good Clayton man.

Q. That was necessary to get on the roll, was it?—A. Yes; it appeare so there.

Q. How did you get on the roll?—A. I professed to be a good Cla ton man.

Q. You say that it was necessary for a man to be a good Clayton ma to get on that roll? Do you not know that the law of Arkansas r quires the secretary of state to make out a roll of those appearing to l elected?—A. I believe it does.

Q. Do you know of any man having been placed on that roll because he was a Clayton man?—A. I have pretty good reason to believe so; for instance, the delegation from Pulaski County.

Q. What do you know about that of your own knowledge? Do you know who appeared by the regular returns to be elected; or do you know anything about that except from what you heard?—A. I know this; that members holding certificates in all legislative bodies according to my understanding get their seats.

Q. That is not responsive to my question. I want you to answer the question just put?—A. I know that those holding certificates from Pulaski county were not put on the roll by the secretary of state, and did not get their seats because there was a resolution offered by a democrat there—Bob Howard, I think, from that county—that the roll as sent in by the secretary of state be adopted, and that those holding certificates from the returning-officer be excluded from the house; and they took their certificates to the secretary's desk and left the room.

By Mr. NORWOOD:

Q. Does that resolution appear on the journal?—A. I do not know whether it was entered or not.

By Mr. BOWEN:

Q. Was Bob Howard a Clayton man?—A. I do not know how much of a Clayton man he was.

Q. Did he not vote against Clayton for United States Senator at both elections?—A. I do not recollect; I believe he did the first time.

Q. Do you not know that every member who appeared by the returns on file in the office of secretary of state to have been elected a member of that house was placed upon that roll, except the delegation from Pulaski county?—A. No sir; I do not know anything of the kind.

Q. Do you know, then, anything about who appeared to be elected by the returns in the office of the secretary of state?—A. No sir; I did not examine the secretary's books.

Q. I wish to refer to the vote by which Mr. Tankersley was elected speaker the first time. Was there ever any reorganization of the house after the turning out of the delegation from Hot Springs County?—A. No, sir.

Q. Any ousting of Speaker Tankersley?—A. No, sir.

Q. Any ousting of any officer elected at the time he was elected speaker?—A. No, sir.

Q. Was the house ever in possession of the anti-Clayton men; did the whole combined opposition to Clayton ever amount to a majority of the house?—A. I do not recollect now. I think perhaps it was at one time after the Hot Springs delegation was admitted.

By the CHAIRMAN:

Q. Were they admitted before or after the second senatorial election?—A. I think it was after the second election.

By Mr. BOWEN:

Q. Was there ever any motion made in the house, to your knowledge, to reorganize the house, or to question the validity of the organization?—A. Not that I recollect.

Q. You never made any such motion?—A. No.

Q. You spoke of the clerk of the former house being excluded at the organization of this house. Did you see him prevented from coming in?—A. I saw him there after I got in, and after the preliminary organization was made. I saw him at the door before the door was opened,

between eleven and twelve o'clock, and talked with him about the organization of the house. He told me that it was his duty to call the house to order.

The CHAIRMAN: Never mind stating what he said.

By Mr. BOWEN:

Q. What has the old clerk to do with the organization of the new house by the laws of the State of Arkansas?—A. I do not know, except what he stated to me.

Q. Do you not know that the law providing that the clerk of the former house should assist at the preliminary organization of the next house was passed since the organization of the last assembly?—A. Not being a lawyer, I do not know anything about it.

Q. I only ask for your knowledge as a member of the legislature?—A. I was not there when that was done.

Q. Were you ever a member of a legislative body before?—A. No, sir.

Q. Do you know anything about the custom of organizing houses preliminarily?—A. I have read some little.

Q. Then I understand you to say it is not necessary to have a certificate to get in—that you are let in by the roll?—A. I had a certificate, but left it at home. I forgot it. I found it was not necessary.

Q. Were the members of that house let in upon certificates as a general proposition, or were they let in upon the roll furnished by the secretary of state?—A. They were let in upon the roll. There were no credentials called for that I know of. I think the law requires that each member-elect gets his certificate from the county clerk of the first county named in the district. I think that is the law.

Q. But they are let in upon the roll as a general proposition?—A. They were at that meeting of the legislature.

Q. You say that Hodges and these other members you have named from Pulaski county were present in the hall of the house of representatives about the time you got in there?—A. Yes. I think Captain Hodges got in a little before me; or, at any rate, within a few minutes afterward I saw all of them, I think, on the floor.

Q. Were there ever any attempts made in that house to turn out the democrats from Pulaski County, and let in Mr. Hodges and his republican colleagues?—A. Not that I recollect of.

Q. Did you not vote against the turning out of the democrats, and the admission of Mr. Hodges and his colleagues?—A. There was no repo of that kind made.

Q. Do I understand you to say that you did not vote against th proposition?—A. I do not recollect; I think Mr. Tankersley left his se one day about the time Governor Clayton was to be impeached, in ord to defeat that and get in a few of the democrats on his side. I think got up and moved, about the time that contest was going on, that th men be admitted; and I voted against it at that time. That is my re collection.

Q. Which men do you refer to?—A. Hodges, Hartman, Butler, and Green.

Q. What do you know about what his object was in making that motion?—A. I think that was it.

Q. How do you know that that would admit the democrats if it had carried?—A. I did not say it would admit the democrats.

Q. What did you say he moved?—A. I said he got up and moved that those delegates be admitted, about the time this contest was going

on. I think it was about the time Governor Clayton was impeached that Tankersley moved that.

Q. That Hodges and colleagues be admitted?—A. Yes.

Q. How did you vote on that proposition?—A. I voted against it.

Q. That was in favor, then, of the retention of the democrats who were in at that time?—A. I did not consider it in their favor. I did not know that it was.

Q. Was not that the effect of the vote?—A. I did it for this purpose: It was sprung at a time when there was another question before the house, in order to split up, if possible, and beat; and I voted against it on that ground.

Q. In order to split up?—A. Yes; of course. The democrats voted for the impeachment of Mr. Clayton; and if they got up a fight between them it would split them up so as to defeat the impeachment.

Q. Split up the democrats? To whom do you refer?—A. The democrats; among themselves.

Q. Did the democrats have enough votes to pass the impeachment against Governor Clayton in the house?—A. I do not know whether they did or not.

By the CHAIRMAN:

Q. Did the motion of Mr. Tankersley carry?—A. It did not carry. Mr. Tankersley, among the rest, had voted them in, and claimed that they were members of the house, and I thought it would not be right to vote them out.

By Mr. BOWEN:

Q. Were they not upon the official list furnished by the secretary of state?—A. They were.

Q. How did Mr. Clayton's friends vote them in?—A. They voted to adopt the list furnished by the secretary of state.

Q. Did you not vote for that, too?—A. I did not.

Q. Was not the motion this: that the house proceed to an organization in accordance with the official list furnished by the secretary of state?—A. No. I think the motion was this: Captain Hodges arose in his seat and offered his credentials as a member of that house; and then I think Mr. Howard or Chamberlain—I forget which—rose and moved that the list furnished by the secretary of state be placed upon the roll as members of this house, and that motion was carried. That is my recollection.

Q. Was the temporary organization made on that?—A. Yes; and the permanent organization, too.

Q. You do not undertake to say, then, that there ever was a vote taken admitting these men any further than that?—A. No, not further than that. The Clayton men all voted to adopt that list and put it down as the list of members, and to exclude those who appeared there with certificates.

Q. Will you refer to the journal?—A. There were a good many things done that that does not show.

Q. Was there, or was there not, great excitement in Little Rock just at the time of the meeting of the legislature in regard to political matters?—A. I did not see any excitement more than there would naturally be; there were a good many people around; I did not see or know of any excitement at all.

Q. Was not the outside hall leading to the entrance of the representative hall filled with people at the time you entered the hall of the house?—A. There were a good many around there.

Q. Was not the outside hall absolutely crowded, so that it was difficult to get through?—A. No; there were a good many people in the hall; but you could walk back and forth up to the hour for the house to be called to order; I did not find any jam there; there were a good many people, but the passage-way was not blockaded up.

Q. Do you know of any effort or any attempt that was contemplated by this Pulaski delegation to seat their men in that house of representatives, whether they were upon the list of the secretary of state or not?—A. I never heard it before I heard you mention it to-day.

Q. You did not hear anything of the kind at the time?—A. There never was such a thing raised in our caucus; I never heard anything of the kind before you mentioned it here to-day.

Q. Who do you understand to be in custody of the state-house in Arkansas?—The secretary of state, I think.

Q. Do you know of any connection that Governor Clayton had with the secretary of state in regard to placing that guard at the door of the hall of the house of representatives?—A. I do not know who placed it there. I know it was there and forbade members going up.

Q. Who forbade members going up there?—A. The guard.

Q. At what time did they forbid them going up there?—A. I think they forbade them going up the flight of stairs until about the hour, or, perhaps, a few minutes after the hour, of 12 o'clock.

Q. Who forbade them going up?—A. The police.

Q. Whom did they forbid?—A. The members and everybody.

Q. What member did you see them forbid?—A. Me, for one.

Q. Did you see them forbid any one else?—A. No one went. There was a guard there. I started to go up, but they told me I could not get up until 12 o'clock, and I walked away.

Q. What was the hour fixed for the organization of the house?—A. Twelve o'clock, I think.

Q. You do not undertake to say that Governor Clayton had anything to do with that guard, so far as you know yourself?—A. I am not posted as to what he did about it.

By Mr. BOWEN:

Q. Do you know of your own knowledge of a single appointment having been made by Governor Clayton as governor, or by him as United States Senator, of any member of the legislaturefor, and in consideration of their having voted for him for the United States Senate?—A. I do not know it except from the mouths of the men appointed.

The CHAIRMAN. The question is a very plain one; do you know of your own knowledge?—A. I say I do not, except from the statements made by the man who claimed to have an appointment.

By the CHAIRMAN:

Q. Do you know it of your own knowledge?—A. No, sir.

By Mr. BOWEN:

Q. Do you know of Governor Hadley, as governor of the State of Arkansas, having appointed, subsequent to his accession to the gubernatorial chair, any members of the legislature in consideration of their having supported Governor Clayton for the United States Senate?—A. No, sir; I did not see him give any commissions.

Q. Do you know of any understanding between Senator Clayton and the present Governor Hadley in relation to the matter of Governor Hadley securing his position as governor of the State of Arkansas, of your own knowledge?—A. No.

Q. Do you know of any member of the legislature, of your own knowledge, having been paid any money by Governor Clayton in consideration of his support or vote for Governor Clayton for United States Senator?—A. No, sir; I did not see him pay anybody.

Q. I ask, of your own knowledge, no matter how you know?—A. I do not know of any.

Q. Of your own knowledge, do you know anything whatever in relation to a trade between Governor Clayton and General Edwards, whereby General Edwards was to receive the certificate as member of Congress from the third district of Arkansas in consideration of the democratic members of the legislature or any of them voting for Governor Clayton for the United States Senate?—A. I do not know anything of it, except what I have stated.

Q. I ask you if you know anything of your own knowledge?—A. Nothing, except what I have stated.

Q. I believe you stated that you knew nothing of your own knowledge?—A. Of course; I did not see any trade myself. I know nothing except what others told me, and what is matter of record—the letter of Gantt.

Q. Do you know, of your own knowledge, of any connection whatever between Mr. Tankersley, the speaker of the late house of representatives, and Governor Clayton in relation to the organization of the house, or the manner of its organization?—A. I do not know anything about their private arrangements.

By Mr. NORWOOD:

Q. Do you know at what time the law of Arkansas requires the governor of the State to appoint the registrars for elections?—A. I did know; but I do not think I can answer now. I think it is about sixty days before the time to commence registering, though.

Q. On what date did this election occur?—A. It occurred on the 8th day of November, 1870.

Q. Were the registrars promptly appointed according to law, or was there any delay on the part of the governor in making the appointments?—A. I have no knowledge of any county but my own; I think everything was regular there.

Q. Were those registrars afterward candidates for the legislature?—A. Not in my county.

Q. In any county, do you know?—A. I am not positive now; but I think Mr. Chamberlain was on the board of registration of Pulaski County, and afterward was a candidate for the legislature and got his seat on the floor. I will not be sure whether he was one of the members of the board of registration; but he was either a member or a clerk of the board.

Q. Was he a supporter of Governor Clayton?—A. Yes, sir.

Q. You mean in the election for the Senate?—A. Yes, sir; he supported him for the United States Senate both times, I think.

Q. Is he the same Chamberlain who was afterward appointed to an office?—A. Yes, sir; the same man.

Q. Do you know whether or not these registrars, in the main, were supporters of Governor Clayton for the Senate, or were his personal friends?—A. My understanding is that all were supporters of Governor Clayton, and I have been informed that one or two who did not support him as warmly as he expected were removed. That is information from other persons, though.

Q. What was the politics of the members of the legislature who sup-

Q. Was not the outside hall absolutely crowded, so that it was difficult to get through?—A. No; there were a good many people in the hall; but you could walk back and forth up to the hour for the house to be called to order; I did not find any jam there; there were a good many people, but the passage-way was not blockaded up.

Q. Do you know of any effort or any attempt that was contemplated by this Pulaski delegation to seat their men in that house of representatives, whether they were upon the list of the secretary of state or not?—A. I never heard it before I heard you mention it to-day.

Q. You did not hear anything of the kind at the time?—A. There never was such a thing raised in our caucus; I never heard anything of the kind before you mentioned it here to-day.

Q. Who do you understand to be in custody of the state-house in Arkansas?—The secretary of state, I think.

Q. Do you know of any connection that Governor Clayton had with the secretary of state in regard to placing that guard at the door of the hall of the house of representatives?—A. I do not know who placed it there. I know it was there and forbade members going up.

Q. Who forbade members going up there?—A. The guard.

Q. At what time did they forbid them going up there?—A. I think they forbade them going up the flight of stairs until about the hour, or, perhaps, a few minutes after the hour, of 12 o'clock.

Q. Who forbade them going up?—A. The police.

Q. Whom did they forbid?—A. The members and everybody.

Q. What member did you see them forbid?—A. Me, for one.

Q. Did you see them forbid any one else?—A. No one went. There was a guard there. I started to go up, but they told me I could not get up until 12 o'clock, and I walked away.

Q. What was the hour fixed for the organization of the house?—A. Twelve o'clock, I think.

Q. You do not undertake to say that Governor Clayton had anything to do with that guard, so far as you know yourself?—A. I am not posted as to what he did about it.

By Mr. BOWEN:

Q. Do you know of your own knowledge of a single appointment having been made by Governor Clayton as governor, or by him as United States Senator, of any member of the legislaturefor, and in consideration of their having voted for him for the United States Senate?—A. I do not know it except from the mouths of the men appointed.

The CHAIRMAN. The question is a very plain one; do you know of your own knowledge?—A. I say I do not, except from the statements made by the man who claimed to have an appointment.

By the CHAIRMAN:

Q. Do you know it of your own knowledge?—A. No, sir.

By Mr. BOWEN:

Q. Do you know of Governor Hadley, as governor of the State of Arkansas, having appointed, subsequent to his accession to the gubernatorial chair, any members of the legislature in consideration of their having supported Governor Clayton for the United States Senate?—A. No, sir; I did not see him give any commissions.

Q. Do you know of any understanding between Senator Clayton and the present Governor Hadley in relation to the matter of Governor Hadley securing his position as governor of the State of Arkansas, of your own knowledge?—A. No.

Q. Do you know of any member of the legislature, of your own knowledge, having been paid any money by Governor Clayton in consideration of his support or vote for Governor Clayton for United States Senator?—A. No, sir; I did not see him pay anybody.

Q. I ask, of your own knowledge, no matter how you know?—A. I do not know of any.

Q. Of your own knowledge, do you know anything whatever in relation to a trade between Governor Clayton and General Edwards, whereby General Edwards was to receive the certificate as member of Congress from the third district of Arkansas in consideration of the democratic members of the legislature or any of them voting for Governor Clayton for the United States Senate?—A. I do not know anything of it, except what I have stated.

Q. I ask you if you know anything of your own knowledge?—A. Nothing, except what I have stated.

Q. I believe you stated that you knew nothing of your own knowledge?—A. Of course; I did not see any trade myself. I know nothing except what others told me, and what is matter of record—the letter of Gantt.

Q. Do you know, of your own knowledge, of any connection whatever between Mr. Tankersley, the speaker of the late house of representatives, and Governor Clayton in relation to the organization of the house, or the manner of its organization?—A. I do not know anything about their private arrangements.

By Mr. NORWOOD:

Q. Do you know at what time the law of Arkansas requires the governor of the State to appoint the registrars for elections?—A. I did know; but I do not think I can answer now. I think it is about sixty days before the time to commence registering, though.

Q. On what date did this election occur?—A. It occurred on the 8th day of November, 1870.

Q. Were the registrars promptly appointed according to law, or was there any delay on the part of the governor in making the appointments?—A. I have no knowledge of any county but my own; I think everything was regular there.

Q. Were those registrars afterward candidates for the legislature?—A. Not in my county.

Q. In any county, do you know?—A. I am not positive now; but I think Mr. Chamberlain was on the board of registration of Pulaski County, and afterward was a candidate for the legislature and got his seat on the floor. I will not be sure whether he was one of the members of the board of registration; but he was either a member or a clerk of the board.

Q. Was he a supporter of Governor Clayton?—A. Yes, sir.

Q. You mean in the election for the Senate?—A. Yes, sir; he supported him for the United States Senate both times, I think.

Q. Is he the same Chamberlain who was afterward appointed to an office?—A. Yes, sir; the same man.

Q. Do you know whether or not these registrars, in the main, were supporters of Governor Clayton for the Senate, or were his personal friends?—A. My understanding is that all were supporters of Governor Clayton, and I have been informed that one or two who did not support him as warmly as he expected were removed. That is information from other persons, though.

Q. What was the politics of the members of the legislature who sup-

ported Governor Clayton for the Senate and were afterward appointed to office, as testified by you a while ago?—A. I think they were mostly Clayton republicans. I think Mr. Chamberlain has always claimed to be a democrat.

Q. Were there or were there not some democrats who always supported Governor Clayton for the Senate?—A. Yes, sir; there were a good many voted for him at the first election.

Q. Did any of those democrats afterward receive appointments to office?—A. I think not, as far as my knowledge goes. I do not know of any. There may have been some.

Q. You spoke a while ago of the organization of the house, and said that the roll of the members was sent in by the secretary of state to the clerk, did you not?—A. Yes, sir.

Q. Who did you mean by the clerk there; was he the clerk of the old house?—A. No; a clerk that was elected—that is to say, a temporary clerk; a man by the name of Cohn.

Q. How was he made clerk? You say when you went in there were some twenty-five or thirty members assembled.—A. He was elected, on motion, as temporary clerk of the house.

Q. Did he have the roll of the members of the legislature at the time he was elected, or was it delivered to him after he was elected clerk?—A. The first I saw or heard of the roll it was in his hands.

Q. Were you in the house when he was elected?—A. Yes, sir. They were electing when I got in. I got in just about the time they made the motion to appoint Cohn as clerk of the house.

Q. How long was it after he was elected before this roll appeared in his hands?—A. Right away; in a few minutes.

Q. Did you see anybody deliver it to him between the election and the time you saw him have it?—A. I did not.

Q. I understood you to say that the sheriff of the county, the secretary of state, and a deputy sheriff named Hughes were at the door through which members entered?—A. Yes, sir.

Q. Were these parties excluding some and admitting others when you saw them?—A. I could not tell. There was a general jam, and I could not tell whether they were keeping part of the members out or not. All I know is that when I got in there were twenty-five or thirty members perhaps in, and they had elected a temporary speaker or chairman, and about the time I got in a motion was made to elect a secretary or clerk. Before he produced the roll, Captain Hodges rose and offered his credentials, and about that time there was a move made to adopt the list as furnished by the secretary of state, and Mr. Cohn rose and read it.

Q. Did you ever hear Governor Clayton, or his successor, Governor Hadley, say anything in reference to the appointments of these members of the legislature and registrars?—A. I did not hear them say anything. I never went where they were. I had no conversation with them.

Q. You had no conversation with either of them on that subject?—A. No, sir; I did not ask for any appointments for myself or my friends. I had no conversation on that point.

Q. Do you know whether that is the usual way of organizing the house of representatives in the general assembly of Arkansas, to send a roll of members elect to a person who is not the clerk, or whether it is committed to the clerk of the old house?—A. I never was a member of the legislature before, and do not know what their custom has been heretofore. I know that the law requires that the county clerk of the county first named in the district is the proper returning-officer, and he

is the proper person to receive a certificate of election from, and on that certificate a member is supposed to be entitled to a seat in the general assembly.

Q. Who were judges of the supreme court of Arkansas in determining the question of *mandamus* as to the disputed election arising in the county of Pulaski?—A. Judge Wilshire was the chief justice; Judge McClure, Judge Bowen, Judge Harrison, and Judge Gregg.

Re-examined by Mr. BARNES:

Q. Do you remember who were the judges of the supreme court that tried the *quo warranto* case against Lieutenant-Governor Johnson?—A. The same list I gave just now, I think.

Q. Are you not mistaken about that? Is it not a fact that Bennett and Searle had been substituted for Wilshire and Bowen, who had resigned and left the bench?—A. I think at that time Judge McClure was chief justice, and Judges Bennett, Searle, Gregg, and Harrison constituted the court.

Q. Is it, or not, true that, of the persons nominated at what you call the Lake Village convention in your district—Baldwin, Goodwin, Webb, Harris, Marr, and yourself—the Monticello convention left off Baldwin and Goodwin, so that the ticket was made up of Webb, Harris, Marr, Fulton, Preddy, and Robinson?—A. Yes, sir.

Q. And they were elected?—A. Yes, sir.

Q. Did they all support Clayton?—A. All but me, and I supported him on his first election.

Q. You opposed him in the last election?—A. Yes, sir.

Q. Who was Colonel Lewis that accompanied Governor Clayton to Drew County to fix up this convention matter? What position did he hold, if any, under Governor Clayton's administration at that time?—A. I cannot tell how many. He is commissioner of immigration, now. He has had a good deal to do with railroads and one thing and another.

Q. Railroads, levees, commissioner of immigration, and what else?—A. I do not know what all.

Q. Was he not appointed to these positions by Governor Clayton?—A. I think he was; I would not be sure about that, though. I think immigration commissioner is an appointed office.

Q. Is it, or not, true that it was publicly known, after the evidence was taken in the Hot Springs report you have referred to, how you would vote upon that question? Had you, or not, declared how you stood in reference to the matter?—A. After I saw the evidence I made up my mind that they were there illegally, and I should vote against them on that account.

Q. Did you, or not, make that intention public?—A. I did.

Re-cross-examined by Mr. BOWEN:

Q. Did I understand you to say that Governor Clayton appointed Colonel Lewis to all the positions you enumerated?—A. No; I spoke in regard to the commissioner of immigration. I thought it was an appointed office.

Q. What connection has Colonel Lewis officially with levees in the State of Arkansas, if any?—A. I do not know. He is president of a road, I believe.

Q. As a state officer, as commissioner of immigration?—A. No connection with them in that respect that I know of.

By the CHAIRMAN:

Q. I understood you to say that your name was put upon the roll be-

cause you were a good Clayton man?—A. I do not know whether I e pressed myself that way or not. I said good Clayton men generally g upon the roll.

Q. You said that because you professed to be a good Clayton man y were put on the roll; were you in the Clayton caucuses after that time?- A. No, sir; when I went to Little Rock I immediately went to see Go ernor Clayton, I think the next day. That was a few days before t meeting of the legislature. In my conversation with him, in regard my voting for him, it was developed that I should not vote for him, a when the caucus met I was excluded. I went up, however, to the cauc room, and word was sent to me that I was not needed there.

Q. That was a caucus of the Clayton men that you were exclud from?—A. Yes, sir; but it was understood to be a republican caucus.

By Mr. NORWOOD:

Q. Both the "brindle-tails" and "minstrels" are republicans, are the not?—A. Yes, sir.

Q. Which wing was this you went to?—A. This was "minstrel."

Q. The one the governor belonged to?—A. Yes, sir.

By the CHAIRMAN:

Q. It was understood that you were not a "minstrel," but a "brindl tail," and you were not admitted?—A. I went in and walked around.

Q. And then you went to the "brindle-tail" caucus?—A. I went McDonald's caucus, the republican caucus—the men dyed in the wool

Q. It is a matter of dispute down there which is dyed in the wool, it not?—A. There is some little dispute about that.

By Mr. BOWEN:

Q. You say that it was developed before the meeting of the legisl ture that you were not for Clayton?—A. Yes, sir.

Q. You said you got on the roll because you pretended to be a Cla ton man. How do you reconcile that?—A. I say it did not develop th I was not a Clayton man till I got there.

Q. Did it not develop before the legislature was organized that y were against Clayton?—A. I do not know but what it did. I said, ge erally speaking, Clayton men got on the roll.

Q. You consider yourself, then, an exception to the rule?—A. I d not know that the roll was made up in that way until after I went ther

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APPENDIX "A" TO E. A. FULTON'S TESTIMONY.

[Extracts from Journal of the Arkansas House of Representatives.]

MONDAY, *January* 2, 1871.

This being the day designated by the constitution of the State of A kansas for the meeting of the general assembly, the house of represen atives assembled in their hall at 12 o'clock m., and was called to ord by Mr. C. C. Waters, of Phillips county.

On motion of Mr. Waters, Mr. C. W. Tankersley was unanimous elected speaker *pro tempore*.

On motion of Mr. Peck, Mr. M. A. Cohn was chosen temporary cle of the house.

The following communication from Robert J. T. White, secretary state, was received.

OFFICE OF SECRETARY OF STATE,
Arkansas, Little Rock, January 2, 1871.

As required by law, I have the honor to lay before the house of re

resentatives the following list of members elected to that branch of the present general assembly of the State of Arkansas, agreeably to the returns of my office.

ROBERT J. T. WHITE, *Secretary of State.*

District No. 1, counties composing district, Craighead, Cross, Jackson, Mississippi, and Poinsett. Members elect, Wm. H. Cate, Chas. Minor, L. D. Rozell, Jos. A. Meek.

District No. 2, Green, Lawrence, Randolph, and Sharp counties. Members elect, J. D. Glass, Moses Harvey, Geo. Thornburg.

District No. 3, Boone, Madison, Carroll, Fulton, Izard, and Marion counties. Members elect, E. P. Watson, G. J. Crump, F. G. Eubanks, Jno. S. O'Neal.

District No. 4, Independence and Van Buren counties. Members elect, Wm. B. Padgett, Wm. H. Palmer, Wm. E. Wilson.

District No. 5, Conway, Pope, and Searcy counties. Members elect, Thos. D. Hawkins, Benj. F. Taylor, N. H. Cleland.

District No. 6, Johnson, Newton, and Yell counties. Members elect, Jas. L. Garner, B. W. Herring, Wm. G. Harris.

District No. 7, Benton and Washington counties. Members elect, Jno. F. Owen, Martin F. Tygart, Thos. Wilson, Jas. M. Pittman.

District No. 8, Crawford, Sebastian, and Franklin counties. Members elect, J. M. Pettigrew, C. B. Neal, J. B. Stevens, J. P. Grady, J. J. Abernathy, tie.

District No. 9, Crittenden, Saint Francis, and Woodruff counties. Members elect, Adam Johnson, Jeff. Haskins, M. A. Cohn, Thos. W. Ham.

District No. 10, Pulaski and White counties. Members elect, C. A. Whittemore, Robert A. Howard, Joel W. Pilkington, John Goad, E. H. Chamberlain, J. W. House.

District No. 11, Monroe and Phillips counties. Members elect, Geo. W. Hollibaugh, Americus Mayo, John M. Peck, Austin Barrow, Chas, C. Waters, James M. Alexander, sr.

District No. 12, Arkansas and Prairie counties. Members elect, Edmund R. Wiley, Geo. H. Joslyn, Bryan C. Morgan, Alva O. Espy.

District No. 13, Hot Springs, Montgomery, Polk, Scott, and Grant counties. Members elect, Chas. R. Kymes, Peter B. Allen, Nathan Ellington.

District No. 14, Hempstead county. Members elect, B. B. Battle, Wm. R. Basden, J. C. P. McLendon.

District No. 15, Lafayette and Little River counties. Members elect, Thos. Orr, Conway Barbour, Wm. C. Hazeldine.

District No. 16, Calhoun and Union counties. Members elect, Thos. Gray, Alex. Mason.

District No. 17, Clark, Pike, and Sevier counties. Members elect, Geo. Haddock, Chas. W. Tankersley, Jno. Wagner, T. G. T. Steele.

District No. 18, Columbia county. Members elect, D. J. Smith, Frank M. Thompson, U. G. Wood.

District No. 19, Ouachita county. Members elect, David R. Jenkins, Martin A. Fricks.

District No. 20, Bradley, Jefferson, and Grant counties. Members elect, Wm. Young, G. W. Prigmore, J. M. Clayton, R. S. Parker, E. G. Hale, Carl Pope.

District No. 21, Grant, Perry, Saline, and Dallas counties. Members elect, Wm. R. Harley, Jas. H. Scales.

District No. 22, Ashley, Chicot, Drew, and Desha counties. Members

elect, A. J. Robinson, C. W. Preddy, Herbert Marr, E. A. Fulton, J. W. Harris, Jno. Webb.

The roll being called, the following-named members were present and answered to their names, viz:

First district, W. H. Cate, Chas. Minor, Jas. A. Meek.

Second district, Moses Harvey, Geo. Thornburg, J. D. Glass.

Third district, G. J. Crump, F. G. Eubanks, E. P. Watson, John S. O'Neal.

Fourth district, Wm. E. Wilson.

Fifth district, T. D. Hawkins, B. F. Taylor, H. H. Cleland.

Sixth district, B. W. Herring, W. F. Harris, James L. Garner.

Seventh district, J. F. Owen, M. T. Tygart, J. M. Pittman, Thomas Wilson.

Eighth district, J. M. Pettigrew, C. B. Neal, J. B. Stevens.

Ninth district, M. A. Cohn, Adam Johnson, Jeff. Haskins, Thomas W. Ham.

Tenth district, Robert A. Howard, Joel W. Pilkington, E. Chamberlain, J. W. House.

Eleventh district, G. W. Hallibaugh, A. Mayo, John M. Peck, Austin Barrow, C. C. Waters, James M. Alexander, sr.

Twelfth district, E. R. Wiley, B. C. Morgan, G. H. Joslyn, A. O. Espy.

Thirteenth district, C. R. Kymes, P. B. Allen, Nathan Ellington.

Fourteenth district, B. B. Battle, Wm. R. Basden, Isaac C. P. McLendon.

Fifteenth district, William C. Hazeldine, Thomas Orr, Conway Barbour.

Sixteenth district, Alexander Mason, Thomas Gray.

Seventeenth district, C. W. Tankersley, George Haddock, John Wagner, T. G. T. Steele.

Eighteenth district, D. J. Smith, F. M. Thompson, U. G. Wood.

Nineteenth district, D. Jenkins, M. A. Fricks.

Twentieth district, William Young, Carl Pope, G. W. Prigmore, John M. Clayton, R. S. Parker, E. G. Hale.

Twenty-first district, William R. Harley, Joseph J. Scales.

Twenty-second district, A. J. Robinson, Herbert Marr, E. A. Fulton, J. W. Harris, C. W. Preddy, John Webb.

Seventy-three members having answered to their names, Mr. Cohn, clerk *pro tem.*, announced that a quorum was present.

On motion of Mr. Chamberlain, the parties claiming seats whose names did not appear in the official list were requested to vacate the hall.

On motion of Mr. Clayton, Hon. Thomas M. Bowen, judge of the supreme court, administered the oath of office to the members of the house.

Mr. Owen moved that the house adjourn until 9 o'clock on the morrow, which was not agreed to.

On motion of Mr. Waters, the house proceeded to permanent organization.

Nominations for speaker being in order,

Mr. Clayton nominated C. W. Tankersley; Mr. Smith nominated Mr. C. B. Neal.

The members proceeded to vote, *viva voce*, for permanent speaker of the house, when it appeared that the following-named members voted for Mr. C. W. Tankersley, viz:

James M. Alexander, sr., Peter P. Allen, Austin Barrow, Conway Barbour, N. H. Cleland, M. A. Cohn, Edward H. Chamberlain, John M. Clayton, F. G. Eubanks, A. O. Espy, Nathan Ellington, E. A. Fulton, M. A. Fricks, James L. Garner, Thomas Gray, T. D. Hawkins, B. W. Herring, W. G. Harris, Jeff. Haskins, Thos. W. Ham, G. W. Hollibaugh,

William C. Hazeldine, Geo. Haddock, E. G. Hale, J. W. Harris, Adam Johnson, George H. Joslyn, D. R. Jenkins, Charles R. Kymes, A. Mayo, B. C. Morgan, Alexander Mason, Herbert Marr, John S. O'Neal, Thomas Orr, Joel W. Pilkington, John M. Peck, Carl Pope, G. W. Prigmore, R. S. Parker, C. W. Preddy, A. J. Robinson, J. B. Stevens, T. G. T. Steele, D. J. Smith, B. F. Taylor, I. M. Thompson, C. C. Waters, E. R. Wiley, John Wagner, William Young.

The following-named members voted for Mr. C. B. Neal, viz:

B. B. Battle, William R. Basden, W. H. Cates, G. J. Crump, J. D. Glass, Moses Harvey, Robt. A. Howard, J. W. House, William R. Harley, Charles Minor, Joseph A. Meek, Isaac C. P. McLendon, John F. Owen, J. M. Pittman, J. M. Pettigrew, Joseph J. Scales, George Thornburg, M. F. Tygart, E. P. Watson, William E. Wilson, John Webb.

Mr. Neal voted for Mr. Thomas Wilson.

Recapitulation of the vote:

For Mr. C. W. Tankersley	51
For Mr. C. B. Neal	21
For Mr. Thomas Wilson	1
Whole number of votes given	73
Necessary to a choice	37

Nominations for clerk being in order, Mr. Waters nominated Mr. J. R. Richards, of Phillips County. There being no further nominations, and Mr. J. R. Richards having received the whole number of votes cast, was declared duly elected clerk of the house. The oath of office, as required by the constitution of the State, was then administered to the clerk elect by Hon. Thomas M. Bowen, judge of the supreme court.

On motion, the speaker was authorized to appoint a temporary chaplain, sergeant-at-arms, and doorkeeper. The speaker appointed as such officers the following-named persons:

For temporary chaplain, Rev. L. C. O'Bar. For temporary sergeant-at-arms, Mr. J. L. Ryan. For temporary doorkeeper, Mr. Samuel Wood; and then, on motion of Mr. Hollibaugh, the house took a recess until 7 o'clock p. m.

Mr. C. W. Tankersley, having received a majority of the votes cast, was declared duly elected speaker of the house of representatives.

The oath of office, as required by the constitution of the State, was then administered to the speaker elect by Hon. Thomas M. Bowen, judge of the supreme court.

The speaker, having briefly thanked the house for the honor conferred upon him, assumed the duties of his office.

WASHINGTON, *February* 6, 1872.

HENRY C. CALDWELL sworn and examined.

By the CHAIRMAN:

Question. State your residence.—Answer. Little Rock, Arkansas.

Q. How long have you resided there?—A. In that city, about eight years.

Q. What is your office at present?—A. I am judge of the district court of the United States for the eastern district of Arkansas.

Q. Were you in Little Rock in the winter of 1870-'71?—A. I was.

Q. Residing there?—A. Yes, sir.

Q. Were you there at the time of the organization of the legislature of that State?—A. I believe I was at home at that time.

Q. And during the session?—A. Yes, sir; during the whole session.

Q. Were you in the habit of attending the sessions of that body?—A. I was not.

Q. Were you there at the time of the organization?—A. I was not.

Q. Subsequently at any time?—A. I think I was in the general assembly as often as two or three times, probably, during the session; not oftener.

Q. Have you any personal knowledge of the difficulties that obtained during the session of that general assembly, which have been referred to by other witnesses?—A. None on earth; I presume I know less about those affairs than almost any gentleman in the city.

Q. Are you connected in any way, to use the word that has been used here often, with either of the factions in the republican party in that State?—A. I am not; I carefully abstained from taking any part with either faction.

Q. Have you any knowledge of any bargain of any kind or description between Governor Clayton and General Edwards with reference to the giving of a certificate of election to General Edwards?—A. None at all; I never heard of it until I read the testimony of Mr. Whipple and Mr. Wheeler before the ku-klux committee.

WASHINGTON, *February* 3, 1872.

O. A. HADLEY sworn and examined.

By Mr. MCCLURE:

Question. Where do you reside?—Answer. At Little Rock, Arkansas.

Q. How are you now employed?—A. As acting-governor of the State of Arkansas.

Q. How long have you been acting as such?—A. Since the 17th of March, 1871, according to my recollection.

Q. Were you a member of the senate of the State of Arkansas?—A. I was.

Q. Are you acquainted with its members?—A. Most of them; all of them.

Q. Take the list printed in this paper which I hand you, and look over it and indicate to the committee those that you appointed yourself.—A. I will say to the committee that I have never looked at the record since. My attention has never been called to this question from the time the appointments were made up to the present time, and my memory will be quite defective in that respect. Mr. Hemingway, I am satisfied, was appointed a commissioner to locate the county site of Lincoln County.

Mr. NORWOOD. Judge McClure, I understand you to request the witness to point out those whom he appointed.

Mr. MCCLURE. Yes; those whom he appointed.

The WITNESS. Mr. Hemingway is the first one. I think I appointed Mr. Hemingway. Mr. S. W. Mallory I appointed commissioner of claims. I see he is put in as State director of the Mississippi, Ouchita and Red River Railroad Company. I think perhaps I did that, but I do not recollect positively.

By Mr. NORWOOD:

Q. Is that an appointment by the governor?—A. I think the law provides for the appointment of a director for the State in that road. I do not know that it refers to any other. J. N. Sarber I appointed a trustee of the Industrial University. The military appointments I do not recollect about. Mr. A. D. Thomas I do not think is the man who was appointed; if I recollect the initials aright, he is not the man who was appointed clerk of Conway County. My recollection of the initials is that A. D. Thomas was the senator. I may be mistaken in that respect. This merely reads: "A. D. Thomas, appointed clerk of Conway County March 29, 1871. My recollection is that it was another Thomas who was appointed clerk.

By Mr. MCCLURE:

Q. Not the senator?—A. Not the senator. I appointed Mr. P. H. Young trustee of the Industrial University. I appointed Mr. Conway Barbour assessor of Chicot County; also Mr. E. H. Chamberlain justice of the peace for the city of Little Rock. I appointed M. A. Cohn superintendent of public instruction. I do not recollect whether I appointed Garner sheriff of Sarber County or not. I appointed a man there, but I do not recollect whether he is the man or not. I think I appointed J. P. Grady sheriff of Crawford County. I appointed George Haddock assessor of Clark County; E. G. Hale coroner of Bradley County; W. C. Hazledine circuit judge; G. H. Joslyn county and probate judge of Lincoln County; Herbert Marr circuit school-superintendent. I think I appointed Thomas Orr assessor of Lafayette County, but he failed to serve, either by my removing him or his failing to qualify, I do not remember which. Here is an appointment which appears to have been made July 22, 1871, "Carl Polk, (colored,") that I do not recollect anything about. It appears from this that Mr. G. W. Prigmore was appointed circuit clerk of Jefferson County, March 17. I know he is and has been performing the duties of the office; whether he was appointed by my predecessor or myself I am unable to state. I appointed J. A. Robinson assessor of Desha County. I think I appointed C. C. Waters circuit judge. I see E. R. Wiley's name appears here as appointed justice of the peace, June 28, 1871; I presume I made the appointment, but do not recollect definitely. I appointed C. W. Tankersley superintendent of the penitentiary. Those are the appointments I made, to the best of my recollection.

Q. Were the persons whose names you have called all members of the last general assembly of the State of Arkansas?—A. I am not certain that all of them were.

Q. Most of them were?—A. Most of them were.

Q. State whether or not any of these appointments were made by you in fulfillment of any agreement between yourself and Governor Clayton for the purpose of compensating members of the legislature for having voted for Governor Clayton for the United States Senate.—A. No, sir; there were a few of these appointments, two or three, that Governor Clayton recommended or spoke to me favorably about.

Q. But there was no agreement or understanding that you were to carry out Governor Clayton's pledges or appointments in consideration of these persons having supported him for the United States Senate?—A. No, sir.

Q. Are you acquainted with these persons?—A. Most of them.

Q. Are they competent men?—A. I believe them to be.

Q. What is the rule in Arkansas as to the appointment of persons to

office? Are democrats usually appointed under your administration A. I have not been in the habit of appointing them.

Q. Mostly republicans?—A. Mostly republicans.

Q. I desire to call your attention again to that paper. Go over the list of persons you have named there and state whether removals were made for the purpose of making vacancies or not, or whether the vacancies existed at the time of your coming into the gubernatorial chair.—A. Many of those vacancies occurred after. Hemingway is the first I named; his appointment was made in pursuance of an act passed at that session of the general assembly. I do not recollect when it became a law. My impression is that it was after the election of Governor Clayton to the Senate, but I am not positive; the record will show. Mr. Mallory was appointed in pursuance of a law passed after Governor Clayton's election. I am positive as to the passage of that law, for I signed the bill myself. Mr. Sarber was appointed trustee of the Industrial University, in pursuance of a law passed at that session of the legislature, and I think it did not become a law until after Senator Clayton's last election.

Q. Is it a lucrative position?—A. I do not understand it so. Mr. Young, appointed trustee of the Industrial University, is in the same situation as Mr. Sarber, the law authorizing the appointment having been passed after the election of Governor Clayton to the Senate. That is my impression, though I may be mistaken about it. I would not testify positively in regard to it, because I might be mistaken as to dates. Mr. Barbour was appointed assessor, and I disremember whether there was a vacancy or whether I removed a man to appoint him. I am unable to state positively whether there was a vacancy in that case.

Q. State whether or not the consideration for that appointment was the fact that Mr. Barbour voted for Mr. Clayton for United States Senator?—A. There was no such understanding between myself and Mr. Barbour. I appointed Mr. Chamberlain justice of the peace for the reason that the Senate failed to confirm the man who had held the position previous to his appointment. Taking the ground that the office was vacant, I attempted to remove the man and appointed Mr. Chamberlain. Mr. John M. Clayton was appointed trustee of the industrial school, the same as the others. I do not recollect when the vacancy occurred that Mr. Cohn was appointed to fill. I think, however, that his predecessor resigned; but at what time I am unable to state.

Q. Was it before or after the election of Senator Clayton?—A. I am unable to make any positive statement in regard to that. The appointment of Mr. Garner, if I made the appointment—I do not positively recollect appointing him—was made in pursuance of an act creating the new county of Sarber and authorizing the appointment of its officers. My recollection is that the bill passed after the election of Senator Clayton.

Q. Then the position to which he was appointed was not in existence at the time of Senator Clayton's election?—A. It was not. The bill was passed the 22d of March. I am unable to state just when the vacancy occurred in the office of sheriff of Crawford County. I am unable to state whether in the appointment of Mr. Haddock I removed his predecessor or whether there was a vacancy there. As to the appointment of Mr. Hale, coroner of Bradley County, my recollection is that there had never been a coroner appointed there; but there was some difficulty in regard to the sheriff, or it was supposed there would be some difficulty, and it was deemed advisable to appoint a coroner. In the position to which Mr. Hazledine was appointed, the vacancy oc-

curred after the election of Senator Clayton. The appointment of Mr. Joslyn as county and probate judge of Lincoln County was made in pursuance of a law creating a new county. My impression is that that law was passed after the election of Senator Clayton. I do not understand when the vacancy occurred that Mr. Marr was commissioned to fill, as I believe the old superintendent held until the new one was commissioned. I do not recollect about Thomas Orr, whether his appointment was to fill a vacancy or whether a removal was made. The appointment of Carl Polk as justice of the peace I do not recollect anything about. I do not recollect whether Mr. Robinson's appointment was to fill a vacancy or whether there was a removal. Mr. Wiley, I think, was appointed to fill a vacancy, but when the vacancy occurred I cannot tell, as there are vacancies all the time in the office of justice of the peace in every county. Mr. Tankersley I have stated was appointed in pursuance of a law passed after the election of Senator Clayton.

Q. State whether or not, if a removal was made by you and another appointment made, it was done for the purpose of making a place to give to a member of the legislature in consideration of that member having supported Governor Clayton for the United States Senate.—A. I never heard that question raised.

By Mr. MORRILL:

Q. You mean to say it is not so, I suppose?—A. I never heard anything said about it in my life. Please repeat the question.

By Mr. McCLURE:

Q. State whether or not, if a removal was made by you and another appointment made, it done for the purpose of making a place to give to a member of the legislature, in consideration of that member having supported Governor Clayton for the United States Senate?—A. I never, to my recollection, have made any such removals or appointments.

Q. You were a member of the last senate of Arkansas, which elected Governor Clayton United States Senator?—A. I was.

Q. State whether or not you have any knowledge of an alleged combination between the friends of Governor Clayton and the democracy in order to secure a certificate of election for John Edwards as a member of Congress, and, if so, state what it was?—A. I have never heard anything in regard to that matter until recently.

Q. You were a member of the legislature?—A. I was.

Q. Participated in it actively?—A. I did, to the best of my ability.

Q. Were you there when the last legislature met?—A. I was.

Q. What was the condition of the State-house on that day as to danger or fear of violence as towards members of the legislature?—A. I saw nothing that was dangerous in that respect; I saw no indications of it.

Q. Were you in the senate when it was organized?—A. I was.

Q. Was there a police force in the house and about it?—A. Do you mean the house of representatives or in the building?

Q. In the State-house building?—A. I do not know that there was any police force; I think there was one or two men stationed at the door or entrance of both houses. That is my recollection.

Q. State whether or not you know the object for which they were there?—A. To admit members of the legislature and no one else, and to avoid any disturbance or anything of that kind that might possibly happen. I suppose that was the object.

Q. Do you know whether or not any person or persons claiming to be members of either branch of the general assembly were excluded by

those officers?—A. I never heard that they were. I did not understand that any one that was or claimed to be a member was excluded.

Q. State, if you know, whether the members of the legislature expected some difficulty in the organization of the respective houses.—A. There were reports of that kind; I heard reports of that kind; how much authority there was for that, I, of course, cannot state.

Q. What were they?—A. Reports that they were going to take forcible possession.

Q. Who do you mean by "they?"—A. Parties who were not supposed to be elected or claimed to be elected. In fact, thereports that I heard were very indefinite and not at all clear, and I placed but very little confidence in them any way. I looked upon them as mainly sensational. For what purpose they were started I am unable to say.

Q. Allow me to call your attention to the senate journal. Go over the list of names of members there and give the names of the republicans voting for Governor Clayton for United States Senator at his second election.—A. In this list of the senate Mr. Askew is looked upon as a liberal republican—a democrat; Gallagher, Harbison, Howard, Hemingway, Hadley, Martin, Mallory, Rushing, Sarber, Thomas, Torrance, and Young, all republicans.

Q. State the republican members of the senate who did not vote for Governor Clayton?—A. Mr. McDonald was voted for by Mr. Archer and Mr. Elliott, who were elected as republicans.

Q. State if any of those gentlemen changed their votes afterward?—A. They did.

Q. Were the persons changing republicans or democrats?—A. I was in the chair. The first vote taken showed 15 votes for Senator Clayton all of these were republicans; 2 for Mr. McDonald, both republicans 2 for Mr. Clark, both democrats; and 4 for Mr. White, all republicans. Then Mr. Wilshire received 1 vote, that of Mr. Riley, who, I believe claims to be a conservative democrat. Then changes were made. Senator Caraloft, who claims to be a liberal republican, changed to Mr. McDonald. Senators Dell, Hodges, and White, who had voted for J. T. White, changed to Powell Clayton. They were all republican. The final vote was announced—18 for Clayton, all republicans; 3 for Mr. McDonald, all republicans.

Cross-examined by Mr. BARNES:

Q. How long have you resided in the State of Arkansas?—A. A little over six years.

Q. Where did you live prior to your removal to Arkansas?—A. Olmsted County, Minnesota.

Q. Where did you live prior to that?—A. Chautauqua County, New York.

Q. Were you elected in 1868 to the senate of Arkansas?—A. I was.

Q. On what ticket were you elected?—A. The republican ticket.

Q. What counties composed your district at that time?—A. Pulaski and White.

Q. Who were candidates for the nomination of that convention at Fort Smith?—A. Judge Searle and Judge Boles, I believe, were all who were named.

Q. Was either of them a candidate prior to the holding of the Fort Smith convention?—A. I so understood it.

Q. Were they both absolutely in the field before the convention was called?—A. I heard them spoken of often as candidates.

Q. Is Judge Searle one of the present associate justices of the supreme court of the State?—A. He is.

Q. By whom was he appointed to that position?—A. I think he was appointed by Governor Clayton.

Q. To fill what vacancy?—A. I may be mistaken; it may be that I appointed him; but I think he was appointed by Governor Clayton.

Q. Do you not recollect that he presided in the Johnson trial, and that was before——

Mr. McCLURE. We concede that he was appointed by Clayton.

The WITNESS. I think he was appointed by Governor Clayton.

Q., (by Mr. BARNES.) At what time did Judge Bowen, one of the counsel in this case, resign his position upon the bench of the supreme court of the State?—A. I could not state the date.

Mr. BOWEN. It was the 31st of January, 1871.

Q., (by Mr. BARNES.) Is it not true that you entered into a scheme for organizing the State legislature of Arkansas with a view to the election of Powell Clayton to the office of Senator of the United States, and to the removal of Governor Johnson from the office of lieutenant-governor, for the purpose of having yourself placed in the position he held?—A. I never entered into any such arrangement.

Q. Did you not use your influence in the legislature as a senator to bring about the result that did occur? I. mean the resignation of Lieutenant-Governor Johnson, his appointment to the office of secretary of state by Powell Clayton, after the articles of impeachment against him and the *quo warranto?*—A. Your question, as I understand it, is this: Did I use my influence to get Lieutenant-Governor Johnson to resign?

Q. Yes, sir.—A. I had several talks with Governor Johnson in relation to that matter.

Q. State what you were going on to state in reference to your conversations with Lieutenant-Governor Johnson.—A. I had conversations with Lieutenant-Governor Johnson upon trying to produce harmony in the republican party in some way, and do what would be for the interest of the State.

Q. What was that conversation?—A. I suggested to him once or twice, once certainly, perhaps twice, that if he would resign perhaps it would bring about a state of affairs that all were desirous to have brought about.

Q. Did you suggest to him to resign his position of lieutenant-governor and accept the position of secretary of state, then filled by Robert J. T. White? Did you favor that plan?—A. I was in favor of that appointment being made if Secretary White should resign.

Q. Were you not instrumental in bringing it about?—A. I do not know as to that.

Q. Were not Powell Clayton and you chiefly instrumental, with John McClure and Thomas Bowen, in bringing that result about?—A. I do not remember that I ever consulted with the three gentlemen you speak of upon that subject.

Q. Were you not instrumental with some one of them in bringing about that result?—A. I was instrumental with Mr. Johnson; that is, I conversed with him on this subject; told him what I thought would be for the best interests of the State.

Q. Were you not instrumental with others than these, the friends and adherents of Governor Clayton, by his authority, in bringing about that result?—A. I hardly know how to answer that question as to how in-

strumental I was; I say I had conversations with Mr. Johnson in regard to that.

Q. Tell what you said to him in those different conversations.—A. I could not tell all.

Q. State what was agreed to between you?—A. I told him I thought it would tend to harmonize the party and stop the difficulty and commotion in the State.

Q. How long was that before the election of Governor Clayton to the office of Senator the last time?—A. Those conversations took place two or three days before, I should think.

Q. Did Lieutenant-Governor Johnson resign his position of lieutenant-governor of the State, and Robert J. T. White, who was then secretary of state, resign his position, and did Governor Clayton then appoint Lieutenant-Governor Johnson to the office of secretary of state immediately before his own election to the Senate?—A. Your question is put in such way as to appear to require an affirmative or negative answer.

Q. Is it not true that the resignation of Lieutenant-Governor Johnson, the resignation of Secretary White, and then the appointment by Governor Clayton of the lieutenant-governor to the office of secretary of state, all occurred just about the time of or before the election of Senator Clayton the second time to the Senate of the United States?

Mr. McCLURE. We will admit all that.

The WITNESS. I do not understand that it all occurred——

Mr. BARNES. The counsel admit it.

Mr. McCLURE. So far as these negotiations are concerned, we admit that they took place at that time.

The WITNESS. Secretary White resigned his position as secretary of state; thereupon, or very soon after, Governor Clayton appointed Lieutenant-Governor Johnson secretary of state; but I do not understand that Lieutenant-Governor Johnson resigned, except by his qualifying as secretary of state, which vacated his office as lieutenant-governor.

By Mr. BARNES:

Q. Do you remember the date of those transactions?—A. No, sir; I think it was the day before Senator Clayton was elected.

Q. Did not the resignation of secretary of state, and the nomination by Governor Clayton of Johnson, and the acceptance by Johnson of the office of secretary of state, both occur within less than one hour of each other?—A. I think they did.

Q. Did you not then immediately organize the senate and procure yourself to be elected lieutenant governor of the State, or speaker of the senate?—A. I had nothing to do with it.

Q. You say you had nothing to do with your election?—A. I believe I voted for another party.

Q. Now, are you candid in saying that you had nothing to do with your election as presiding officer of the senate?—A. I do not know but that I had something to do with my election. I believe I did not vote for myself, and I believe I never asked anybody to vote for me.

Q. You believe you did not; but do you pretend to tell this committee here that you had nothing to do with that election?—A. Further than to vote.

Q. Now, did you not electioneer for yourself, and did you not understand before the ballot was taken, and at the time of the resignation of those two officers, that you were in fact to be by regular programme the presiding officer of the senate of Arkansas?—A. No, sir; I did not know that.

Q. Did you not, from what had occurred and what was understood between you and Governor Clayton and Lieutenant-Governor Johnson and their friends, including Secretary White, have every reason to believe that that would occur?—A. I could not tell until there was a caucus held by the republicans.

Q. Answer the question directly; I put a direct question.—A. I had no reason from anything that had transpired from them, but I thought I had many friends in the senate who would probably vote for me for that position; but whether enough to elect me or not I was not certain.

Q. Were you not a candidate, publicly, for the position before the resignation of those men?—A. No further than this: A gentleman by the name of Sarber, Mr. Mallory, and myself, had been talked of as probable candidates for that position in case of a vacancy, or in case there was a president *pro tempore* of the senate to be elected. Whether I would receive the position, or either one of these gentlemen, I was not certain until the matter was decided by the republican caucus.

Q. Is it not absolutely true that you were elected presiding officer of the senate of Arkansas by the direction and procurement of Powell Clayton?—A. Not to my knowledge.

Q. Have you not reason to believe, from all that did occur, that such is the fact?—A. I do not know that I have, for the reason that in the caucus held to decide that question, part of Governor Clayton's warm friends voted for other parties, and part of them voted for me; and all the three gentlemen I named did receive votes in that caucus, and they were most of them friends of Governor Clayton; so I have no knowledge what he had to do with it directly.

Q. Indirectly then?—A. One of his friends, who was supposed to be his choice, I believe said so; Senator Mallory received, I think, four votes in caucus; I received seven or eight.

Q. Were you present at the caucus?—A. I was.

Q. Was Governor Clayton present?—A. He was not.

Q. Did he know of the existence of the caucus?—A. I do not know that he did.

Q. Is it not your understanding from all the facts that he did know?—A. I do not know anything about it.

Q. Was John McClure present at that caucus?—A. No, sir.

Q. Was Thomas Bowen present?—A. He was not.

Q. Did they not advise and procure, as the friends of Governor Clayton, the assemblage of that caucus?—A. Not to my knowledge. It was done by the senators themselves.

Q. Did not Governor Powell Clayton tell you that he was for you for president of the senate, before your election?—A. He never told me so.

Q. Did he not tell you that he intended to use his influence, and did he not use his influence, for your elevation to that position?—A. Not to my knowledge.

Q. How long had you and Governor Clayton and the friends connected with that scheme been engaged in bringing it about?—A. What scheme?

Q. The scheme of appointing Lieutenant-Governor Johnson to the office of secretary of state, and the resignation of Lieutenant-Governor Johnson, and your election as presiding officer of the senate.—A. I do not know how long Secretary White had been contemplating resigning. I heard him speak of it months before. At what particular time he made up his mind to do it I do not know.

Q. Do you know why or the considerations upon which Secretary White made his resignation?—A. I do not.

Q. Did he pretend to tell you?—A. Yes; he said that he was willing to do anything he could to bring about harmony in the party; if his resignation would do it, he was willing to resign.

Q. What was his office as secretary of state worth at the time?—A. I can only answer approximately.

Q. What was his fixed salary, and then taking into consideration the perquisites of his office, what was it all worth?—A. I should say it was worth seven or eight thousand dollars a year.

Q. Do you pretend to tell this committee that Robert White was willing to resign an office worth to him $8,000 a year, merely to bring about harmony?—A. I can only say what he said.

Q. What did he say?—A. He said he was willing to do it; that if he could be the means of harmonizing the party by his resignation, he was willing to do it.

Q. What did Lieutenant-Governor Johnson say?—A. He said he was willing to do anything he could to harmonize.

Q. Is it not true that up to about the time that the arrangement was made that you have named, Lieutenant-Governor Johnson and Governor Clayton were upon bitter personal terms, were bitter enemies?—A. They were fighting politically.

Q. Were they not bitter personal enemies up to that time?—A. I do not know that they were.

Q. Is it not the fact that you and Lieutenant-Governor Johnson were bitter personal enemies?—A. We were not, to my knowledge. I had no bitter feeling toward him at all.

Q. Is it not true that you were an ardent friend and supporter of Governor Clayton for his election to the Senate?—A. I was, under certain circumstances.

Q. What were those circumstances?—A. If the State could be left in the hands of any party whom we considered willing to do what was for the interest of the republican party and the best interests of the people of the State.

Q. How long did you preside in the senate of Arkansas before Governor Clayton was elected to the Senate of the United States?—A. My recollection is that I presided the rest of the day I was elected. I think it was on Monday, and he was elected Senator on Tuesday.

Q. What day did Governor Clayton resign as governor?—A. The 17th of March.

Q. What day was he elected to the Senate the second time?—A. I do not remember.

Q. What is your best recollection?—A. He was elected, perhaps, on the 3d or 4th of March.

Q. And the day before his election as Senator the arrangement was made between Johnson and himself and White, and your election as presiding officer of the senate occurred?—A. I think Mr. White resigned the day before his election, and Mr. Johnson was appointed on the same day.

Q. What other considerations, than the consideration of having the State government intrusted to safe hands that would administer it in the interest of the republican party, governed you in your desire to see Senator Clayton elected to the Senate?—A. I thought he was a good man for the position, and that, if any man was entitled to it, he was entitled to it for what he had done for the republican party of that State as its chief executive officer.

Q. Were you unwilling to have him elected to the Senate with Lieu

tenant-Governor Johnson left in the position of lieutenant-governor of the State?—A. I was.

Q. Would you have voted for Powell Clayton the first time if you had reason to believe that Lieutenant-Governor Johnson would have remained in his position?—A. No; I do not think I would.

Q. Now, governor, is it not true that the friends of Governor Clayton were elected, so far as he could control them, with the express understanding that they were to unite in an effort to expel Johnson and place the State government in the hands of one of his friends, and then that he should go to the Senate?—A. I never knew of any such understanding.

Q. Did you not advocate his claims to the Senate upon the express grounds that that should be done?—A. I stated to Governor Clayton and to his friends that I did not feel disposed to support him for the Senate and leave the gubernatorial chair for Mr. Johnson to occupy.

Q. Did you not then agree, and was it not agreed between you and Governor Clayton and the friends of both of you generally, that a joint effort and combination should be made against Lieutenant-Governor Johnson to expel him from office and put some leading friend of Governor Clayton in the office of lieutenant-governor, and then elect him to the Senate; and did you not all carry out that agreement?—A. I never heard of any such agreement. I knew there were legal questions pending in the *quo warranto* case. What the result would be I did not know, and did not suppose anybody did.

By Mr. MORRILL:

Q. Was there a legal proceeding pending involving the right of Lieutenant-Governor Johnson to hold his office?—A. Yes, sir.

By Mr. BARNES:

Q. Were you not present at a caucus held by Governor Clayton and his friends, at which he agreed, and it was understood between them, that Lieutenant-Governor Johnson was to be expelled from office, and he was to be elected to the Senate?—A. No, sir. I was at a caucus where the question came up, if Governor Clayton was elected to the Senate, whether he would retain that position if Lieutenant-Governor Johnson was to succeed him as governor, and a committee was appointed to wait on Governor Clayton for his answer, which, I think, he sent in writing; or, perhaps, he came and addressed the caucus.

Q. Can you state the substance of that agreement?—A. Governor Clayton said he would not retain his position as United States Senator, if his friends desired him not to do so, in case Governor Johnson was to succeed him.

Q. How long did you act as speaker of the senate and governor added?—A. I acted as governor from the 17th of March until the 25th; that is my recollection.

Q. After being elected speaker you acted both as speaker and governor at the same time?—A. Yes, sir; in one sense. I did not preside over the senate, except that I was there the closing day, as I had occasion.

Q. Did you not sit in the chair and actually preside during some of the days?—A. I did one day, perhaps.

Q. Why did you do that? Why did you undertake to act as governor and president of the senate at the same time?—A. It was thought best for me to do so. I believed I had a right to preside over the senate.

Q. Who so thought—anybody except yourself?—A. I do not know.

The question came up and was discussed whether I should preside over the senate or not.

Q. Discussed by whom?—A. I cannot say by whom; by several gentlemen, as to the propriety of it.

Q. Did Governor Clayton advise you to do so?—A. I do not recollect that he did. I think Captain Hodges and I talked over the propriety of it at one time.

Q. This Captain Hodges here?—A. Yes, sir.

Q. What did Hodges say?—A. He thought it was not proper; that I should not vote, at all events, on bills that I was to sign as acting governor. I believe I did not vote upon any bills.

Q. (Showing a journal.) Look at the journal of the senate and see whether your signature is here to the minutes every day from the time you were elected.—A. I think I signed them every day.

Q. So that you acted in both capacities?—A. I think I usually went into the senate-chamber, called the senate to order, and stepped out of the chair, calling another member to it, and went to the executive office.

Q. Were there reports of bills signed by the acting governor at that time?

Mr. McCLURE. I submit to the committee that this examination is taking a very wide range.

By Mr. MORRILL:

Q. You were elected president of the senate; did you resign that?—A. No; I held the office of governor by virtue of being president *pro tempore* of the senate.

Q. You held that office after you were acting as governor?—A. Yes, sir.

Q. You were both acting governor and president of the senate *pro tempore?*—A. As I stated before, I held my position as governor by virtue of my being president *pro tempore* of the senate. I did not preside, however, except that I believe I usually went into the senate-chamber and called the body together in the morning, and called some other member to the chair when I left the senate-chamber. The last day I believe I presided in the forenoon all the time.

By Mr. BARNES:

Q. And signed the journal?—A. Yes, sir.

By Mr. MORRILL:

Q. When did Governor Clayton resign his governorship—before or after his election as Senator?—A. After. My recollection is the 17th of March, as I have stated.

WASHINGTON, *February* 5, 1872.

O. A. HADLEY'S cross-examination continued.

By Mr. BARNES:

Question. Were there reports of bills signed by the acting governor at the time when you were acting as president *pro tempore* of the senate?—Answer. I presume there were.

Q. What laws were passed after you occupied the position of governor and president *pro tempore* of the senate?

Mr. BOWEN. The better way would be to prove it by the laws themselves.

The CHAIRMAN. That would be the better way certainly.

Mr. BARNES. I propose to show by the witness that all the important laws in reference to levees, elections, and matters of that sort, were passed during that time.

The CHAIRMAN. I understand your object is to show that certain bills were passed in connection with railroads, levees, &c., that he signed. Just ask him directly whether he was kept in that position for the purpose of signing those bills.

Mr. BARNES. The statutes then may be considered before the committee as showing their dates.

Mr. BOWEN. Certainly.

By Mr. BARNES:

Q. Is it not the fact that you were kept in your position of lieutenant-governor for the purpose of signing those bills?—A. I never occupied the position of lieutenant-governor to my knowledge. You mean president *pro tempore* of the senate, I suppose.

Q. Yes.—A. I believe I stated my reasons for presiding over the senate as I did, which were that I held my position as governor by virtue of my being president *pro tempore* of the senate, and I presided over the senate so far as I deemed necessary and advisable to retain that position.

Q. During that time were the three million levee law and the militia claim law, under the appropriation of $175,000, passed?—A. A large number of the acts of that general assembly were passed during that time; I do not remember which ones.

Q. Was not the election law, introduced by yourself, passed during that time?—A. I think it became a law during that time.

Q. Did you introduce it?—A. I did, prior to that time, I believe.

Q. Did not the senators, or those in favor of the election of Clayton, abandon their seats in the senate and go to the brush upon the presentation of the articles of impeachment against Governor Clayton, you among the number?

The CHAIRMAN. As to that there is no controversy that they did leave the senate.

Mr. BOWEN. It has already been shown that the quorum was broken.

Mr. BARNES. I want to show the purpose for which they left.

The CHAIRMAN. You may inquire as to the purpose.

By Mr. BARNES:

Q. For what purpose did you and the other senators abandon your seats in the senate?—A. My reason for doing it, and my general understanding of the cause of such action, was that we understood there was an arrangement by which the State government was to be taken possession of, and the chief justice impeached, and a new court organized and put into power for the express purpose of trying Lieutenant-Governor Johnson. That was a report; with how much truth it was circulated I cannot tell.

Q. Do you know of your own knowledge that there was any truth in that report?—A. I cannot say that I do.

Q. How did you obtain your information?—A. Perhaps I can answer the question as concisely by saying by Madam Rumor as any other way—general report.

Q. You cannot give any other information than Madam Rumor or general report; you cannot give the name of any person who imparted

to you that imformation?—A. I heard it talked of by various and s dry individuals.

Q. Did you hear it talked of by any person except the friends Governor Clayton?—A. I can not say that I did.

Q. Is it not true that you did not?—A. I presume I did not. I not recollect hearing it talked of by others.

Q. Pending the impeachment in the house, were not the State ar which had before that time been kept at the United States arse moved down to the State-house openly?—A. I do not know as to th My impression is that a portion of the State arms were stored at State-house, but I am not certain as to that.

Q. Is it not true that a portion of them were at the United Sta arsenal and that they were moved down?—A. I think they were, bu am not positive about that. I think a portion of the arms were sto at the State-house and a portion at the arsenal.

Q. Were they not placed in Governor Clayton's executive office?— There were several stand of arms placed in his executive office.

Q. Were not the doors of the hall or the approaches to the execut office barricaded during the pendency of the impeachment agai him?—A. I do not know that they were barricaded. There were p sons in there guarding.

Q. Were they not actually nailed up or planked up, barricaded, a persons placed there as guards?—A. My impression is that they w not. There was a door placed there, but I have no recollection tha was closed up.

Q. Were not the guards placed at the doors and stairways and proaches to the executive office, and other places?—A. There were n stationed in the executive office who were there most of the time.

Q. Who caused that to be done?—A. I suppose it was by Govern Clayton's orders. I so understood.

Q. Was there not a force at that time organized?—A. There was.

Q. Were they not the friends of Governor Clayton?—A. They we I think, mostly, perhaps all of them.

Q. Were you not one of that number?—A. I was.

Q. Were you not the captain of that force?—A. I was elected or pointed captain of a militia company.

Q. Who were the other officers of that organized company?—A. I not know that I could name them all.

Q. Was Senator Mallory one?—A. I think he was. I think Gene Montgomery was one.

Q. The attorney-general of the State?—A. I think he was.

Q. Was not Governor Clayton a corporal in that company?—A. N to my knowledge; I do not think he was.

Q. Did he not belong to the organization?—A. I do not think he d

Q. Are you certain he did not?—A. I am not certain, but I do n think he did.

Q. Tell all you know about the transaction connected with the gu and the organization of that company, and the number of men engag in it, and their names, as well as you can remember.

The WITNESS. There was a request or demand, I think, made by t lieutenant-governor upon Governor Clayton to surrender the execut office to him as lieutenant-governor, and it was refused by Gover Clayton, upon the ground that the articles of impeachment which h been passed by the house did not suspend him until they were prese ed to the bar of the senate, and he notified of that fact. As I ha before stated, there was a report, and it was believed by myself a

others, that there was an attempt to be made to take forcible possession of the executive office. This company was organized for the purpose of defending, by force, the executive office against any attempt of that kind, except in a legal manner.

Q. Was it organized at the instance of Governor Clayton and his friends?—A. I would not say that Governor Clayton instigated it, but it was done by his friends.

Q. With his approval?—A. I presume it was. I do not recollect.

Q. You heard it talked of in his presence?—A. Yes, sir; I think it met his approval; no doubt of it.

Q. Tell anything else connected with that transaction which you have not detailed.—A. The organization was made opposite the State-house.

Q. At what place?—A. The building known as the old bank building.

Q. Who occupied the room in which the organization was made and held?—A. Two rooms, I think, were occupied by Senator Beldin and General Montgomery.

Q. Beldin, the senator from Hot Springs County?—A. Yes, sir. They were General Montgomery's rooms.

Q. The attorney-general of the State?—A. Yes, sir. I do not recollect whether Beldin occupied a room there or not. My impression is that he slept in the back room, but I am not certain about that.

Q. Beldin and Montgomery were friendly to Clayton, were they not?—A. They were, so far as I know.

Q. Did you meet in that room with the members of the organization?—A. Yes; several met there one evening and organized.

Q. How often did you meet there?—A. I do not recollect of our meeting there but once for the purpose of organization.

Q. How many persons were there, and give their names?—A. I could give only an approximation to the number. I think there were perhaps thirty or forty men who met there that night. I am not certain as to the number.

Q. Give their names as well as you can.—A. I cannot make much headway in giving the names.

Q. Was Beldin present?—A. I think he was.

Q. Dugger?—A. I could not say.

Q. Gallagher?—A. I think he was.

Q. Harbison?—A. I should think not; but I am not certain.

Q. Howard?—A. My impression is that he was present.

Q. Was Senator Howard present?—A. My impression is that he was.

Q. Did he belong to the organization?—A. I think he did; but I am not positive.

Q. Was Senator Hemingway there?—A. I could not say, but I presume he was.

Q. Was Senator Martin there?—A. I am unable to state; but my impression is that he was.

Q. Was Senator Mallory there?—A. I think he was.

Q. Was Senator Rushing there?—A. I do not think he was.

Q. Was he there at any meeting?—A. At any military meeting—a meeting for this purpose, do you mean?

Q. Yes, sir.—A. I do not recollect seeing him at a meeting of that character.

Q. Did he belong to the organization?—A. I hardly think he did.

Q. Was Senator Sarber there?—A. I think he was.

Q. Senator Thomas?—A. I think not; but I may be mistaken. I cannot recollect.

Q. Did he belong to the organization?—A. I cannot tell you.

Q. Was Torrans there?—A. I think perhaps he was.

Q. Young?—A. I presume so.

Q. They all belonged to the organization?—A. I presume they did. I am not certain about that. I think most of them did.

Q. I will ask you in reference to members of the house. Was not Representative Alexander there?—A. I cannot say.

Q. Barbour?—A. I think Mr. Barbour was there.

Q. Was that Conway Barbour?—A. Yes, sir. I am not certain that Mr. Barbour was there.

Q. What position did Representative Barbour hold in that organization?—A. I cannot say.

Q. Was he not lieutenant?—A. Perhaps he was.

Q. Was Representative Barrow there?—A. I do not know.

Q. Was not Governor Clayton there?—A. No, I think not.

Q. Was his brother John Clayton?—A. I think he was.

Q. Cohn?

Mr. BOWEN. We will admit that all these men were friends of Governor Clayton, if that is the point.

Mr. BARNES. I do not wish to be disturbed.

The WITNESS. It is impossible for me to recollect those who were there; but I presume a great many of those members; I think several of them were there.

Q. (By Mr. BARNES:) Do you say that Cohn was there?—A. I think he was.

Q. Espy?—A. I do not recollect.

Q. Did he belong to the organization?—A. I cannot say.

Q. Garner?—A. I cannot say.

Q. Did he belong to the organization?—A. I do not recollect.

Q. Was Haddock there?—A. I do not recollect his being there.

Q. Did he not belong to the organization?—A. My impression is that he did.

Q. Was either one of the Harrises there; J. W. Harris, or the other one?—A. I am not acquainted with them.

Q. Hazeldine, who was appointed circuit judge, was he not there and did he not belong to the organization?—A. I think he did.

Q. Was he present at that meeting with you?—A. I presume so.

Q. Was Hollibaugh there?—A. I think he was, but I am not certain.

Q. Was Representative Marr there?—A. I do not recollect about his being there.

Q. Did he belong to the organization?—A. I think he did.

Q. Was not Joslyn there?—A. I cannot say.

Q. Did he not belong to the organization?—A. My impression is that he did, but I am not positive.

Q. He is county judge of Lincoln County now, is he not?—A. Yes, sir.

Q. Was not Mayo there, and did he not belong to the organization?—A. I do not place him now.

Q. You do not remember him?—A. No.

Q. Was Morgan there?—A. I do not recollect.

Q. Was he not a member?—A. I cannot say.

Q. Was not Representative Orr there, and did he belong to the organization?—A. I cannot say; my impression is he did belong; but I am not certain.

Q. Parker?—A. I do not remember.

Q. Peck?—A. I cannot say who were there that night.

Q. Did he not belong?—A. I have to be governed in these answers more by my recollection of men—who my impression is were members of the organization. I think Mr. Peck was.

Q. Was not Preddy there, and did he not belong to the organization?—A. My impression is that he did belong to the organization.

Q. Is he not the present county judge of Drew?—A. Yes, sir.

Q. Prigmore; was he not there, and did he not belong to the organization?

A. I think he belonged to the organization.

Q. Was not Steel there, and did he not belong to the organization?

A. I do not recollect Steel ever meeting; I hardly think he belonged to the organization, but I may be mistaken.

Q. Was not Wagner there, and did he not belong to the organization?

A. I think Mr. Wagner did belong to the organization.

Q. Judge Waters; was he not there, and did he not belong to it?

A. I think so.

Q. He is now judge of the criminal court at Helena?

A. Yes.

Q. Was not Wiley there?

A. I think Wiley belonged to the organization. I do not recollect his being there.

Q. All that I have interrogated in reference to were members of the legislature?

A. Yes, sir, I think so; although I do not recollect Mayo by name.

Q. Were they not all friends and supporters of Governor Clayton?

A. I believe all you have named were.

Q. Was any other republican member, any one who was opposed to Governor Clayton, at that meeting or belonging to that organization?

A. Not that I know of. It was not the intention that any should be.

Q. Did you have a roll of that organization?

A. Yes, sir.

Q. Where is that roll?

A. In the executive office.

Q. Can it be produced?

A. It can. It is a public record. My impression is that it was a regularly organized militia company under the laws of the State. I have never seen the roll since I have been in the office, but I presume it is on file. If so, it can be seen at any time.

Q. By Mr. BARNES: Is it not the fact that the object and aim of that organization was military in its character, and was it not to retain the Clayton ring in the control of the State government?—A. I never heard anything of that kind discussed. As I have before stated, the object of the organization was to prevent the accomplishment of the object I have named, to wit, the taking forcible possession of the executive office. That was the special object.

Q. This organization was made before the election of Clayton, was it not?—A. Before his second election to the Senate, I think.

Q. Was it not a secret, oath-bound organization?—A. No, sir; I do not think it could be so considered. It was understood, however, that it should be secret; that there should be no publication of the facts of the organization particularly.

Q. What was the name or style of that organization?—A. I think the company was called the Arkansas Invincibles.

Q. Were they not called the Clayton Invincibles?—A. No; my recollection is, "Arkansas Invincibles."

Q. Reflect a moment, and see if your recollection is not that they were called and known as "the Clayton Invincibles?"—A. I was given a commission at the time as captain of that militia company.

Q. Did you take an oath?—A. No, sir.

Q. At no time?—A. I do not recollect.

Q. Did any of the officers or members of that organization take an oath?—A. I do not recollect their taking any oath. I think not. My recollection is that there was no oath taken.

Q. I ask you if one of the objects or means to be employed by that organization was not assassination?—A. No, sir; it was never suggested or talked of in my presence.

Q. Was it not the object and purpose of that organization to assassinate Lieutenant-Governor Johnson, Robert F. Catterson, and Britton, who were then marshals of the United States?—A. I never heard a thing of the kind suggested in my life.

Q. Were they not specially designated as the first to be murdered?—A. I never heard anything said about the murder or assassination of any gentleman at those meetings.

Q. Did you not make an address to that company at one time before Clayton's election or Johnson's appointment to the office of secretary of state?—A. I made a little talk on the evening of the organization; perhaps five minutes.

Q. Was not that a rallying talk to your men?—A. It might be so considered.

Q. Did you not in that talk state that "we now hold this government by a mere technicality of law; and if we now lose control we shall never again reach the surface," or words to that effect?—A. I do not recollect using any such language.

Q. Do you recollect or pretend to say that you did not?—A. My impression is that I used no such language. I used language, I think, to about this effect: that the other party, or what we termed the disorganizers or revolutionists, had no legal right to the executive office, but intended to take possession of it by force; and that if they succeeded in doing that, it was liable to end in a great deal of difficulty, and it was our duty, as citizens of the State, to protect the government and the powers that were. That was it.

Q. Was not your speech or talk made while Clayton was under im-impeachment, or the articles of impeachment were pending against him?—A. I could not say as to the date.

Q. Is it not your best recollection that this is true?—A. My best recollection is that it was after the articles of impeachment were passed by the house.

Q. Was it not while you believed, or some believed, that he was suspended by operation of law, or would be in case the articles of impeachment were passed by the house; that it would work his suspension, and Johnson would come into power?—A. I never believed, and those whom I conversed with on that subject never believed, that he would be suspended by the action of the house, as I before stated, until the articles were presented at the bar of the senate and he notified of that fact; and then it was the understanding that he should immediately surrender the office to Lieutenant-Governor Johnson.

Q. I will again call your attention to the fact whether you did not say that, if they lost the opportunity, they would never see the surface again.—A. I do not recollect using any such language.

Q. Did you not advise and countenance assassination?—A. Never in my life.

Q. Did you not all go secretly armed into your respective legislative bodies and throughout the city?—A. I do not remember, but I do not think I ever carried an arm in the legislature in my life. I may have done so.

Q. Did you not put your arms in your desks and have them ready at hand to carry out this purpose, if anything occurred in either branch of the legislature?—A. I do not recollect ever carrying a fire-arm or weapon of any kind into the legislature except my cane.

Q. Was it not a part of the agreement and understanding on your part and the others that if any difficulty occurred, whoever was nearest the men opposed to you were to do the assassination, or commit the murder?—A. I never heard the question discussed of committing assassination or murder. The only conversation on that subject was on the subject of defending ourselves against what we supposed might transpire.

Q. Where did the senators go to from the senate; where did they hide?—A. They all met on Sunday night, I think, at my house.

Q. Did you remain there all the time?—A. I remained there until Monday morning.

Q. Where did you then go?—A. I think we went about southwest from the house.

Q. Where to?—A. Off south of the race track.

Q. Where to?—A. Into the brush.

Q. Did you stay all night in the brush?—A. No, sir.

Q. What time did you go to the brush?—A. I think about 5 o'clock in the morning.

Q. How long did you remain in the brush?—A. Until five or six at night; perhaps later.

Q. Where did you go at night?—A. To Judge Bowen's house.

Q. Where was Judge Bowen's house situated?—A. About a mile and a half or two miles, perhaps, from the capitol.

Q. Outside the city limits?—A. I think just outside the city limits.

Q. Was it not known as his country residence?—A. I believe I have heard some romantic name for it, but I do not recollect.

Q. Is it not the same house now owned by Milton Rice?—A. I suppose it is the same. It is the house he had formerly lived in, and, I suppose, was then the owner of.

Q. By whose direction did you go to that house?—A. I think it was agreed upon while we were in the brush.

Q. Did Bowen know you were going there?—A. I do not know whether he did or not.

Q. Do you not believe he did; is it not your best recollection?—A. He might have known it that day.

Q. Did he oppose your going there?—A. He was not present. I do not recollect anything about it.

Q. How did you get into the house?—A. I think we went in at the door. We might have gone in the window.

Q. How long did you remain there?—A. Until four or five o'clock in the morning.

Q. Where did you go next?—A. Into the brush.

Q. Where did you go from the brush then?—A. We went to another house.

Q. What house?—A. The house of Colonel Oliver.

Q. The sheriff of Pulaski County?—A. Yes, he was sheriff of Pulaski County.

Q. And one of the men appointed to guard the door of the house of representatives at the organization of the legislature, was he not?—A. I do not recollect about that, but I presume he was there as sheriff of the county. I do not remember who were there.

Q. Was he not an ardent supporter and active friend of Governor Clayton?—A. He was considered, I believe, his friend at the time.

Q. Did you not remain at his house while Oliver had his deputies out pretending to hunt for you?—A. I never knew that he had his deputies out hunting for us.

Q. While the sergeant-at-arms was out hunting for you?—A. We were there.

Q. How far is that from the State-house?—A. About a mile.

Q. On the outskirts of the city, up the river, is it not?—A. Yes, sir.

Q. Did not Senator Clayton know where you were all these times?—A. I do not know at what times, but he knew we were at Oliver's.

Q. He knew you were at the brush and in your house, and had gone from Bowen's house and from one place to another?—A. I do not know that he knew we had gone to my house. I think he knew we had gone to Bowen's house.

Q. Did he not keep up communication with you?—A. I think he knew where we were all the time.

Q. Did he not keep up communication with you?—A. I think he understood where we were.

Q. Did you pretend to return to that senate until you obtained his consent?—A. I do not know that he ever gave his consent, or we ever asked it. We discussed the question when it was best for us to return.

Q. Did you return until you were satisfied it would be agreeable to him?—A. I do not know as to that.

Q. Is it not your best recollection?—A. My recollection is that it was agreeable to him.

Q. Did he not visit you while you were absent, at some time in the night?—A. I think he did one night.

Q. Where were you?—A. At Colonel Oliver's.

Q. Did not Judge Bowen visit you?—A. I do not recollect.

Q. Did not Judge McClure visit you?—A. I do not recollect Judge McClure coming there.

Q. Did he not communicate with you?—A. I do not recollect Judge McClure having any communication whatever.

Q. Do you pretend to say he did not?—A. I do not know of his having any.

Q. You do not remember about it?—A. I do not. Governor Clayton did.

By Mr. MORRILL:

Q. How many members of the senate were with you?—A. I think there were fourteen.

Q. Fourteen in all, including yourself?—A. Yes, sir.

Q. How long were you absent from the senate?—A. From Monday until Saturday morning. We were absent five days in the week.

Q. Your object was to prevent a quorum of the senate?—A.

[illegible] A. To prevent the presentation of

Q. Decided in court?—A. Yes, sir; and to avoid the presentation of the articles of impeachment, so that they might take forcible possession and thereby appoint another court. The chief justice being impeached, they were going to throw him out and appoint a court, as we supposed, to suit themselves to make this trial.

Q. That is to say, when you left the articles of impeachment were pending before the house of representatives?—A. Yes, sir.

Q. Had they passed?—A. I think they had; that is my impression; it was about that time.

Q. There was also a *quo warranto* pending in the supreme court?—A. Yes, sir; against the lieutenant-governor.

Q. To remove Johnson from his place?—A. Yes, sir.

Q. Was there an impeachment also pending against Johnson at the same time?—A. No, sir. There were articles presented in the house, but they did not pass.

Q. Was that before or after this?—A. Before, I think.

Q. At this time were there articles of impeachment pending against the chief justice?—A. I think there were.

Q. In the house?—A. Yes, sir.

By Mr. NORWOOD:

Q. Who were the judges of the supreme court at the time the *quo warranto* was pending before them?—A. Judge McClure, Judge Gregg, Judge Harrison, Judge Bennett, and Judge Searle.

Q. Was Searle the gentleman who was at one time a candidate for Congress?—A. Yes, sir, the same man.

By Mr. MORRILL.

Q. You came back on Saturday?—A. Saturday morning, my recollection is.

Q. You were remaining away until some event should happen?—A. Until the *quo warranto* case was decided. It was then being tried. It was decided in favor of Lieutenant-Governor Johnson, and we immediately returned. No; I think we returned before it was decided.

Q. What were you remaining away for; until what event should happen?—A. Until the decision of that *quo warranto* case—that was the main thing—and to prevent the articles of impeachment being presented at the bar of the senate until that was decided, in order that Governor Clayton, whom we held was the legal governor until the articles were presented to the bar of the senate, should continue the supeme court as it was, and not have Governor Johnson step in and appoint a chief justice and the other members of the court as he saw fit, to try his own case.

Q. That is to say, you apprehended that if you remained in the senate the articles of impeachment would be presented that would suspend Governor Clayton?—A. Yes, sir.

Q. That was your interpretation?—A. Yes.

Q. And Governor Clayton being suspended Governor Johnson would be governor?—A. Yes, sir.

Q. And then he would suspend the chief justice. Was that your idea?—A. Yes, sir.

Q. Had he power to do that?—A. We supposed that would be done. He was impeached.

Q. This impeachment would come up from the house against him and he would be suspended?—A. Yes, sir.

Q. And then Johnson would appoint another chief justice?—A. We looked upon it as a conspiracy got up to accomplish an object.

Q. And you were acting on that theory, and it was to prevent the consummation of these three things—the suspension of Governor Clay ton, the suspension of the chief justice, and the putting in place o Governor Clayton the then Lieutenant-Governor Johnson?—A. Yes sir. We were perfectly willing that the articles should be presented and that Governor Clayton should be suspended as soon as this matte was disposed of, and we returned with that intention and expectation We supposed the articles of impeachment would be presented, but i appeared their object had been accomplished, or it took some other turn and the particular articles of impeachment were not presented.

Q. They never came to the senate?—A. They never did. The article against the chief justice did.

By Mr. BARNES:

Q. Reflect and see if it is not true that the articles of impeachmen did reach the senate against Governor Clayton and against the chie justice both.—A. Those against the chief justice did.

Q. Did not those against Governor Clayton?—A. I do not know bu that they were presented; I do not recollect about it; they were imme diately withdrawn at any rate. I am unable to state now. They wer presented in the *interim*, or while the majority of the senate was absen there was an attempt made to present them, but we did not recogniz that as being a presentation of the articles, there being only five or si members present—not a senate. I recollect distinctly that those agains the chief justice were presented, but I do not recollect as to Clayton's.

Q. You will not say it is not so?

Mr. MCCLURE. The journal would show that.

The WITNESS. I would rather refer to the journal than answer th question. I think "particular articles of impeachment" was the style (Examining the journal.) I see by the journal of the senate that thi notice was given:

"In obedience to the orders of the house of representatives, we appea before you, and in the name of the house of representatives, and of al the people of the State of Arkansas, we do impeach Powell Cl ayton governor of the State of Arkansas, of high crimes and misdemeanor in office; and we further inform the senate that the house of represent atives will, in due time, exhibit particular articles of impeachment against him, and make good the same; and, in their name, we deman that the senate take order for the appearance of said Powell Clayton, t answer said impeachment.

(Signed) "C. B. NEAL,
"CHARLES MINOR,
"JOSEPH A. MEEK,
"*Managers in Impeachment.*"

(*Journal of the Senate, Thursday, March* 2, 1871, *page* 208.)

I do not think those particular articles of impeachment were ever pre sented. This much was done. I do not know what the legal technica construction would be, whether that was a presentation of articles o not.

Q. (By Mr. BARNES:) Is it not true that Governor Clayton kept ou of the way of service of notice upon him while you were in the brush —A. That I do not know.

Q. Is it not your best recollection?—A. I do not know that I eve heard that question talked of at all.

Q. Did he surrender the office of governor to Johnson upon the presentation of this?—A. He never surrendered the office of governor at all.

Q. Were you present at the organization of the senate on the second of January, 1871?—A. I was.

Q. Did Secretary White furnish a roll of senators elect?—A. He did.

Q. When?—A. It was on that day. It was there on the desk.

Q. Before or after the organization?—A. Before the organization.

Q. Was the name of Joseph Brooks on the roll?—A. It was not.

Q. Was Joseph Brooks present at the organization of the senate?—A. He was.

Q. Did he ask to be sworn in?—A. At the organization the question was raised by some senator whether it was a senate consisting of the old members, the ten or twelve members holding over, and that we were then organizing; whether we were an organized senate and were about to swear in the new members, or whether we were all there to organize a senate consisting of the old members and the members-elect. The chair, Lieutenant-Governor Johnson, decided that it was a senate, and that the first thing in order would be to admit and swear in the members-elect. About that time Mr. Brooks stepped forward and addressed the presiding officer, Lieutenant-Governor Johnson, and made an inquiry something like this: "Do I understand the chair to decide that this is a senate, and that the first business in order will be to swear in the members-elect, or that we are here for the purpose of organizing a senate out of the members-elect and the old members?" The chair decided that it was the senate, and Mr. Brooks replied that he merely made the inquiry; if they were there for the purpose of organizing the senate he wished to present his credentials. Mr. Johnson replied that it was a senate and would proceed. Mr. Brooks stepped back, I think, and took a seat. I think that was very nearly the transaction, as I recollect it.

Q. Did you have any understanding or agreement that Joseph Brooks was not to be sworn in?—A. No, sir; I never heard it discussed.

Q. Did not Brooks ask you to present his credentials?—A. Mr. Brooks asked me to present his credentials about two or three weeks after the organization of the senate.

Q. Did you do it?—A. I did not.

Q. Why?—A. The first day of the organization Mr. Snyder came to me and asked me if there was any unpleasant feeling between Mr. Brooks and myself. I told him none that I knew of. I asked him why he asked the question. He said, "Mr. Brooks has handed me his credentials to present to the senate, and I did not know what it meant. As a matter of courtesy, you, being his colleague, should present them." Perhaps an hour or so after that he came to me again and asked me if I had Mr. Brooks's credentials. I told him I had not. "Well," said he, "he has taken them from me, and I supposed he was going to give them to you." I heard no more about Mr. Brooks's credentials until about two or three weeks after the organization of the senate. Then Mr. Brooks came and called me out, and asked me if I would present his credentials. I told him I would. Said he, "Will you ask that I come forward and be immediately sworn in?" Said I, "Mr. Brooks, I do not think I can do that; I have in my pocket the credentials of Mr. Riley, your opponent. As chairman of the committee on elections, they have been referred to me for several days, and I hardly think it would be in good taste for me, as chairman of that committee, to take your credentials and go and ask that you be sworn in while holding what purport

to be the credentials of Mr. Riley asking for your seat in this body "Well," said he, "what will be done with them if you present them? Said I, "My impression is that they will be immediately referred to th committee on elections. If so, I will call a meeting of the committe immediately upon the question." He hesitated a moment, and finall said he believed he would not give them. That is the substance of a that ever passed between Mr. Brooks and myself on the subject of h credentials. There was a vacancy then in the tenth district until M Riley took his seat.

Q. At the time of the organization of the senate and the appearan of Brooks and the admission of Riley, there was a vacancy—there wa no representation from the district except yourself?—A. Yes, sir.

Q. Were you chairman of the committee on elections?—A. I was.

Senator Hadley, chairman of the committee on elections, submitte the following report:

Mr. President: Your committee on elections, to whom was referre the credentials of Wilshire Riley, esq., and Honorable Joseph Brook claiming seats in this body from the tenth senatorial district, have th honor to report that, upon an examination of such credentials, we fin those of Honorable Joseph Brooks regular in form, as contemplated b law, and those of Wilshire Riley to contain only a statement of fact and not, in the opinion of your committee, credentials to entitle him t a seat. Your committee would therefore recommend that the Ho Joseph Brooks be admitted a sitting member of this body, Wilshi Riley having all rights reserved to him to contest the seat of Josep Brooks, upon the facts stated in his purported credentials, if he s desires.

By order of the committee.

O. A. HADLEY, *Chairman.*

Q. Is it not the fact that Brooks was afterwards sworn into th senate?—A. It is.

Q. Do you remember on what day he was sworn in?—A. I do not.

Q. Who swore him in?—A. He was sworn in twice.

Q. (By Mr. BARNES.) How many days did Brooks remain in the se ate?—A. Which time?

Q. After he was sworn in, while he was acknowledged as a senat and permitted to act, how long did he remain, participating as a memb of the senate?—A. My recollection is, about one or two days.

Q. Is it not true that he was there eight or ten days?—A. I do n think he was there that long, but I have forgotten the time. He wa there two days, I know.

Q. Did not Brooks demand the right to appear before the committe on elections, and to be heard, and offer evidence in support of his right?- A. I do not think that Mr. Brooks ever made such a demand of me; do not recollect that he did.

Q. Was he heard before the committee in person or by attorney?—A I do not think he was.

Q. Is it not true that you absolutely denied him the right either to b heard in person or by attorney?—A. I do not recollect of his ev making an application to me in any way, by writing or orally.

Q. Did you belong to the committee, or did you act with the oth members of the committee that reported upon his case and Riley's ca finally?—A. No, sir; I believe I did not meet with them at all.

By agreement, the report of the committee on elections, upon which Mr. Brooks was unseated, is inserted in the testimony, as follows:

Senator Young, from the committee on elections, reported in relation to the seats of senators from the tenth district as follows:

Your committee to whom was referred the matter of contest between Wilshire Riley and Joseph Brooks, for a seat in this body as a member from the tenth district, beg leave to submit the following report:

The sixty-eighth section of chapter sixty-two, Gould's Digest, declares that in a case where a senatorial district is composed of two or more counties, that a return of votes cast for senator shall be made to the clerk of the county court first named in the district.

The sixty-ninth section of the same chapter makes it the duty of the county clerk thus receiving the returns, to give to the person receiving the highest number of votes a certificate of election.

Whether the sections referred to are obsolete, since the passage of the act regulating elections, approved July 23, 1868, is a question that need not be discussed in this report.

Mr. Brooks presented a certificate of election made out by the county clerk of the county first named in the tenth senatorial and representative district. He also presents what purports to be an abstract of the votes cast for senator in the tenth district, certified to by the secretary of state.

By these abstracts it appears that Mr. Brooks received a majority of all the votes cast in the tenth senatorial and representative district.

Mr. Riley claims that the returns upon which the clerk of Pulaski County based his certificates are not correct and do not show the true state of the case.

First. Because said returns do not show the vote cast for senator, and the legal and lawful polls in the township of Eagle, and in the First and Third wards of the city of Little Rock, but on the contrary show the number of votes cast at an illegal poll held without warrant or authority of law.

Second. Because said returns do not show the vote cast for senator in the townships of Caroline, Richwoods, Clear Lake, and Prairie, in said county of Pulaski, but on the contrary show that the votes cast in said townships are the votes of electors of the twelfth district and not of the tenth district.

Other objections and ground of contest are made by Mr. Riley, but we shall for the present confine ourselves to the points mentioned, for, if this body should reach the conclusion entertained by the committee, it would be a work of supererogation to go outside the two propositions stated.

It appears from our investigations that two polls were opened in the township of Eagle, and in the First and Third wards of the city of Little Rock. One of these polls was managed and controlled by the judges of election appointed in the mode the law directs; the other was managed by persons acting as judges who were chosen by a portion of the bystanders. The vote cast at the election held by the judges selected by a portion of the bystanders in the township of Eagle, and in the First and Third wards of the city of Little Rock, is carried on to the return filed in the office of the secretary of state, and is also included in the return on which the clerk based the certificate issued to Mr. Brooks.

Mr. Riley contends that the votes cast at the polls held by the judges of election, appointed in a legal and lawful manner, should prevail over the returns of the votes cast at the polls whose judges were appointed or elected without warrant or authority of law.

The question as to which of the two polls are legal in the township of Eagle, and the First and Third wards of this city, was presented to the supreme court of this State in the case of Howard *et al. vs.* McDiarmid, and the court said:

"It appears that double elections were not held in any of the townships of the county save Eagle, and that double elections were only held in the First and Third wards in the city of Little Rock.

"Under such circumstances, what was the duty of the clerk? The thirty-ninth section of the election law is, that on the fifth day after the election, if all the returns have been received, the county clerk shall proceed to open and compare the several election returns which have been made to his office, and make abstract of the votes given for the several candidates, &c.

"As to all the other townships, save Caroline, Richwoods, Clear Lake, and Prairie, and Eagle, and the First and Third wards, his duty was clear and plain, for it was no part of his business to determine whether the election held in Ashley, Eastman, Campbell, Gray, and Badgett precincts was regular or not.

"There was but one set of returns before him, and he was bound to forward an abstract to the secretary of state of those townships. Now let us see what his duty was as to the township of Eagle and the First and Third wards of the city of Little Rock. There were two sets of returns filed in his office, and counsel ask, 'How was the clerk to determine which was the legitimate one?' The third section of the election law requires the county court to revise the formation of election precincts in each county, and fix a place in each precinct or ward where the election shall be held. The county clerk is the custodian of the records of the county court, and it will be presumed that he knew of the action of the county court in this respect.

"The fourth section of said act requires the board of registration for each county, immediately before the election, to appoint three discreet persons, having the qualifications of electors, in each election district, to act as judges of election. The petition alleges and the demurrer admits that a list of the judges appointed by the board of registration was filed in the office of the county clerk, and that he knew who the regular judges were. Knowing that the law authorized the appointment of judges of election by the board of registration, and being furnished with the evidence of such appointment, now what was the duty of the county clerk?

"The counsel for the respondent at this point directs our attention to the seventh section of the election law, which provides that 'If the county clerk shall fail to fix a place at which elections are to be held in any election district, or if the board of registration fails to appoint election judges, or those appointed fail to act, it shall be the duty of the sheriff to fix a place for holding the election, and the voters when assembled may appoint the judges.'

"After directing our attention to this section, it is asked how the clerk is to know whether the returns made by persons as judges elected by the voters, is the regular return of the election held, or whether that held by the regularly appointed judges should prevail? The answer is, that it appears 'that board of registration did not fail to appoint,' and the evidence that the regular judges did not 'fail to act,' is furnished by the returns on file in the office of the county clerk, and that the law does not recognize the right of the voters except in the two cases provided. But it is urged that the returns from the township of Eagle, and the First and Third wards of the city of Little Rock, are sworn to,

and that it appears therefrom that the regular judges did 'fail to act;' and it is asked, 'What is the clerk to do under such circumstances?' We have already stated that when the return of the regularly appointed judges was made to the clerk, that it was to be presumed that they had acted, if they so returned; and as to whether what is termed the 'irregular polls' were sworn to, all that we have to say is, that no such fact appears by the response or demurrer, and such statements must be treated as *de hors* the record. Then we say that the returns made by the judges appointed by the board of registration, and of which the clerk admits he was fully advised, ought to have been certified as the true returns, and the other should have been excluded from the abstract to the secretary of state.

"The counsel for the respondent directed our attention to the forty-first section of the election law, to show that if the clerk should reject or refuse to count the vote of any poll-book of any election held by the people, that the clerk is liable to indictment for a high misdemeanor, and that it was his duty to certify to the secretary of state all the returns that might be returned to his office, whether legal or illegal. It will be sufficient response to this to say that the law does not contemplate any such thing as an 'illegal poll,' and when the law speaks of 'any poll-book,' it has reference to the poll-book of a legal election, and not the poll-book of an election that the records in the office of the clerk of the county advised him were *prima facie* void.

"The records in the clerk's office, as the respondent admits, contained names of the electors appointed by the board of registration, and the return of the judges that they held an election under and by virtue of that appointment, became another record, showing that they had *acted*, and under such circumstances the clerk had no right to assume that they had 'failed to act,' no matter who or how many had sworn that they had not."

We cannot help regarding the opinion of the supreme court as settling the question as to which of the polls was legal and lawful. By the returns of the legal polls, it appears that Mr. Riley received in the township of Eagle and the First and Third wards of the city of Little Rock, 468 votes, and that Mr. Brooks received 20 votes.

The next question is, are the electors of Carolina, Richwoods, Clear Lake, and Prairie entitled to vote for a senator in the tenth district?

This question was also presented in the case of Howard *et al. vs.* McDiarmid, and the court said: "The counsel for McDiarmid urge that the electors residing on the territory acquired from Prairie County, although electors for Pulaski County for the purpose of electing members of Congress, State and county officers, are not electors of the tenth senatorial district, and have no right to vote therein, they having been electors of the twelfth senatorial district at the adoption of the present constitution. In assuming this position, they urge that they are sustained therein by the plain provisions of the constitution of the State. The provision of the constitution alluded to reads as follows: 'Until after the apportionment, as herein provided for, the senatorial representative districts shall be composed of the following counties, to wit:

"'Tenth district, of Pulaski and White.

"'Tenth [twelfth] district, of Prairie and Arkansas.'

"Here we have an apportionment of the counties intosenatorial and representative districts. The concluding portion of the section declares that: 'The senators and representatives shall be apportioned among the several senatorial and representative districts as follows, to wit:

"'Tenth district, two senators and six representatives.

"'Twelfth district, one senator and four representatives.'

"Here we have an appportionment of the number of senators and representatives to the different districts.

"The eighth section of article five of the constitution then declares, 'That there shall be no apportionment other than that made in this constitution, until after the enumeration to be made in the year 1875.'

"Here we have a declaration that the apportionment by section two of article fourteen shall remain as it is now, until after the year 1875. The inquiry now arises, does the act entitled an act to be entitled 'An act to change the boundary-lines of Prairie and Monroe Counties, and for other purposes,' either change any one of the senatorial or representative districts, or the basis of representation or apportionment therein?

"The constitution declares that the tenth district shall be composed of the counties of White and Pulaski, and that the district shall have two senators and six representatives. The counsel for the respondent urge that these provisions of the constitution evidence an intention on the part of the framers of the constitution and the people who adopted it, to prevent the transfer of electors by change of county lines from one senatorial and representative district to another. We do not assent to any such interpretation of the constitution. Section twelve of article twenty declares that no county now established by law, shall ever be reduced by the establishment of any new county or counties, to less than six hundred square miles. The rule of construction is, that the legislature may pass all such laws as to them shall seem just, so long as they do not touch on the other departments of the government, or the constitution of the State. The inhibition in the question just quoted is, that the counties shall not be reduced below six hundred square miles.

This does not prevent the legislature from adding territory to another country, so long as it does not reduce a county below the number of square miles mentioned in the constitution. This general proposition is conceded by counsel for respondents, but they insist that while it is true that the legislature may change the boundaries of counties, that it cannot change the boundary of a senatorial or representative district. We concede that the legislature had the power to attach a portion of Prairie County to the tenth district, for the sole purpose of allowing the electors of the twelfth district to vote in the tenth.

This would be a mere change of voters; but in this instance, the county line is changed, and the citizens are, by operation of law, moved from one county to the other, for all purposes, as fully as though they had abandoned their former homes and moved voluntarily within the county of Pulaski. They as much became electors of the tenth district as they were of the twelfth. The boundary of the tenth district is fixed by the boundary lines of White and Pulaski counties, and not by what was the boundaries of those counties at the adoption of the constitution.

To say that the electors of Prairie County may be transferred by a change of county boundary into Pulaski County, for the purpose of sueing and being sued, for the purpose of voting for all State and county officers and members of Congress, and that they can't vote for senators and representatives to be elected to represent the county in which they live and are interested, but that they must vote for men to represent them in the legislature that do not live in their counties, is a proposition that, when once stated, shows the fallacy of the reasoning. The tenth senatorial district is yet composed of the counties of White and Pulaski, and no other.

The framers of the constitution evidently intended that the boundary-lines of the different townships of the county should constitute boundary-lines of senatorial districts. The inhibition in the constitution in relation to apportionment, was to prevent the legislature from changing the counties in the district; that is, from taking one county out of a district and placing another therein. If the legislature should put White County into some other district, this would be such a change of apportionment of the district as the constitution inhibits; or if the legislature attempted to say that the tenth district should have one senator and four representatives, instead of two senators and six representatives as now fixed by the constitution, this would be a change in the apportionment, as the provision was intended to inhibit. These things being true, the clerk of the county court ought to have returned the abstract of votes cast in these townships as votes cast in the county of Pulaski instead of votes cast in the county of Prairie, in the twelfth district.

Whether the electors of townships had a right to vote in Pulaski County for senators and representatives to represent the tenth district, was a question that the law does not authorize the county clerk to decide. His duty is simply ministerial, and it was for him to certify the returns, and let the proper tribunal pass on the question of legality or illegality.

We think it is clear that the electors residing in the townships of Caroline, Richwoods, Clear Lake, and Prairie are entitled to vote for senator in the tenth senatorial district. In these four townships Mr. Riley received three hundred and thirty-three votes and Mr. Brooks received eighty-two votes, which, added to the vote of Eagle and the First and Second wards of Little Rock, makes the count stand, for Riley eight hundred and one votes, and for Brooks one hundred and two votes. In the other townships of Pulaski County Mr. Riley received eight hundred and twenty-three votes, and Mr. Brooks received two thousand three hundred and two votes, which, added to the votes that each received in the townships of Caroline, Richwoods, Clear Lake, Prairie, and Eagle, and in the First and Third wards of the city of Little Rock, would make the vote stand, for Riley one thousand six hundred and twenty-four, and for Brooks two thousand four hundred and four, as the total vote of Pulaski County. In the county of White Mr. Riley received one thousand one hundred and seven votes, which, if added to the one thousand six hundred and twenty-four votes received in the county of Pulaski, gives Mr. Riley two thousand seven hundred and thirty-one votes cast in the tenth district. In the county of White Mr. Brooks received two hundred and twenty-seven votes, which, added to the two thousand four hundred and four votes he received in the county of Pulaski, makes his total vote two thousand six hundred and thirty-one. Thus it will be seen that Mr. Riley has one hundred more legal votes in the tenth district, for senator, than Mr. Brooks has.

We do not deem it necessary to go into the alleged frauds and violence in the townships of Gray, Badgett, Campbell, Eastman, and Ashley, as it already appears that Mr. Riley is entitled to the seat now held by Joseph Brooks.

But while on this subject it may not be amiss to remark that in the township of Ashley the votes cast exceeds the registration forty-eight votes. In the township of Campbell, the vote cast exceeds the registration sixty votes, and in the township of Badgett the vote exceeds the registration sixty-eight votes.

This fact, taken in connection with the other fact, that about twenty per centum of the registered voters in the other townships and wards

did not attend the polls on the day of election, is susceptible of but one inference, and that is, that gross and inexcusable frauds were perpetrated in those townships.

Your committee, therefore, recommend the adoption of the following resolution:

Resolved, That Wilshire Riley is entitled to a seat in this body, as the member-elect from the tenth senatorial and representative district, and that Joseph Brooks is not entitled to a seat in this body as a member-elect from the tenth senatorial district.

P. H. YOUNG.
O. P. SNYDER.
WM. HARBISON.
A. HEMINGWAY.

Q. Is it not true that Brooks was not only denied the right to be heard in person or by attorney, either before the committee or the senate, but that he was also denied the right to introduce any proof whatever, or show or manifest his right to the seat?—A. My recollection is, that I did not meet with that committee at all upon his case, and never knew what was done.

Q. You know the fact that he was denied by the senate the right? Did he not appear and ask to be heard in defense of his right in the senate?—A. I believe he appeared and asked those claims for about six or seven hours in the senate.

Q. Did he not appeal to the senate to permit him to offer evidence in support of his right?—A. I think he appealed for time during this speech.

Q. Is it not true that the friends of Clayton in the senate and the committee on elections, who were also his friends, refused the right to Peshall to be heard or present any evidence of his claims or right to a seat in the senate?—A. I do not think he was refused.

Q. Was he ever before you?—A. He was in the committee-room at one time, I recollect.

Q. How long?—A. Perhaps half an hour.

Q. Was the committee in session?—A. I think not.

Q. He was never before the committee when in session?—A. I do not recollect his being there. I think he and Mr. Beldin both came there, and we had them both go away. I do not remember whether the committee was in session or not; but my impression is that we requested them both to go away and not be there at that time. The object was to have the committee organized and lay down the manner in which we would proceed, the course we would pursue. I think neither one of them ever appeared before the committee afterward.

Q. He was contesting the seat of Beldin, from Hot Springs, was he not?—A. Yes, sir.

Q. You stated in your examination-in-chief that the secretary of state had charge of the State-house and grounds. Do you mean to say that that included the senate and house chambers during the sitting of the legislature?—A. I believe under our statute the secretary of state has charge of the State-house and grounds during a recess of the legislature.

Q. Not during the sitting of the legislature?—A. They are in charge of the legislature during the sitting of the body, I think.

Q. Did you, or not, see any of the city police on duty in or about the corridors or passages in the State-house on the day of the organization of the legislature?—A. I do not recollect. There was a very large crowd down below, but I do not recollect whether there were any city

police there. I do not remember seeing them. I think there were some parties placed at the door.

Q. You stated in your examination-in-chief that you had reports of trouble at the organization of the legislature. State from whom you had the information or reports?—A. I heard that matter discussed by different parties.

Q. Did you ever hear anybody discuss it except Clayton men?—A. No, I do not know that I ever did.

Q. All your information and rumors, then, came from that source?—A. I presume so. I do not now recollect whom I heard talk about the matter.

By Mr. BARNES:

Q. How many miles of railroad are there in Arkansas entitled to State aid?—A. Do you mean how many miles of road are stated and awarded by commissioners?

Q. Yes, sir; or entitled to State aid, either way?—A. Eight hundred and fifty miles, if I understand your question

Q. What amount of aid is each mile of the roads designated entitled to, and designate the roads, if you please?—A. I cannot give the number of miles of all the roads exactly.

Q. Can you give the roads?—A. I think so. The amount of aid awarded to the Little Rock and Fort Smith road is 150 miles.

Q. How much per mile?—A. Ten thousand dollars. The Memphis and Little Rock, 120 miles, at $10,000 per mile. The Arkansas Central Railroad and its branches, 150 miles, at $15,000 per mile.

Q. Designate the names of the branches of that road.—A. I think one is called the Pine Bluff branch and the other the Clarendon branch. I may not be strictly correct as to the titles, but I think these are they.

Q. Can you designate any others?—A. The Little Rock, Pine Bluff and New Orleans. I have forgotten the amount, but I think perhaps 160 miles, at $15,000 per mile. The Mississippi, Ouachita and Red River, I think 170 miles, at $15,000 per mile. The Kansas City and Fort Smith road, formerly known as the border road, 100 miles, at $15,000 per mile.

Q. Do you remember any other?—A. I believe that is all.

Q. What about the Prairie County and Pine Bluff; is that a branch of the Arkansas Central?—A. My recollection is that that may be the name of the branch. There is no award made to any except the Arkansas Central and its branches there.

Q. The whole amount then would be about $11,400,000, would it not?—A. I do not recollect the amount.

Q. Why is it that $10,000 was awarded, per mile, to some of the roads, and $15,000 to the others?—A. That was in pursuance of the law awarding the aid; under the law, roads having a land-grant receive $10,000 a mile, and those having no land-grant $15,000 a mile.

Q. You mean land-grants from the United States Government, I suppose?—A. Yes, sir.

By Mr. MORRILL:

Q. Are these awards of recent date?—A. No; they have been made some time. The award is a designation of certain roads, awarding the aid if they comply with the provisions of law and complete the road by sections; then they receive the awards.

By Mr. BARNES:

Q. Is not the act to aid in the construction of railroads, on page 148

of the Laws of Arkansas, the statute you refer to as fixing the aid?—A. This is the one.

Q. State the date of its approval.—A. Approved July 21, 1868.

Q. The twelfth section provides that the question as to aid should be submitted to the people, does it not?—A. It does.

Q. Who are the directors in the Little Rock and Point Bluff Railroad?—A. I cannot tell you.

Q. Who are the directors of the Mississippi, Ouachita and Red River Railroad?—A. I think Colonel Lewis is one. He is acting president of that road. I do not know whether Mr. Sickles is one or not. I cannot name them further than Colonel Lewis.

Q. Is he commissioner of immigration of the State?—A. Yes, sir.

Q. Was not Judge Bowen president of that road?—A. He was formerly.

Q. Up to what time?—A. I do not know the date. My impression is that it was about the time he was appointed governor of Idaho that he resigned.

Q. Was not that just after Clayton's election to the Senate?—A. A month or two after; I do not recollect exactly.

Q. Who are the directors in the Arkansas Central Railroad?—A. Colonel Dorsey is the president of the road. I cannot name the rest of the directors.

Q. Is not Mr. Peck, who was one of the members of the legislature, also a director?—A. I think Mr. Peck is, and I think Colonel William H. Rogers is also a director.

Q. Do you remember any others?—A. No, sir.

Q. Who are the directors in the Kansas City and Fort Smith Railroad?—A. I think Mr. Neal is one.

Q. Neal, a member of the legislature?—A. Yes, sir.

Q. A Clayton man?—A. No, sir; a democrat.

Q. Who else?—A. Mr. Sarber, I think, is one.

Q. Is he not a member of the senate?—A. He was a member of the senate.

Q. A Clayton man?—A. He was friendly to Governor Clayton.

Q. Any others?—A. I do not know who the others are.

Q. What position does Sarber hold in that company now?—A. I do not know. I think he is a director.

Q. Is he not the president?—A. I supposed that Mr. Neal was president; but I may be mistaken in regard to that. They have never made any application for bonds.

Q. Who are the directors of the Prairie County and Pine Bluff Railroad?—A. I do not know anything about that road, unless it is what I understand to be one of the branches of the Arkansas Central.

Q. Was not Mr. Young, formerly a member of the senate and a friend of Governor Clayton, one of the directors when the aid was granted to it?—A. Mr. P. H. Young was a member of the senate.

Q. Was he not one of the incorporators and directors when the aid was granted?—A. I do not know; but I think perhaps he was.

Q. Have any of these railroads been designated to receive this aid since you have been governor of the State?—A. I believe there has been no aid awarded since I came in, except, I believe, a change has been made, but upon the same line, to the best of my recollection; that is, upon the same route, I would say.

Q. What road do you refer to?—A. The Pine Bluff branch of the Arkansas Central road. I think there has been a change made since I have been acting as governor from one company to another, perhaps

from the company you speak of to the Pine Bluff branch. To the best of my recollection that is all the aid which has been awarded or change made in the designating of roads to receive aid.

Q. What railroads were designated to receive this aid by the board of commissioners after Governor Johnson became secretary of state and Clayton was elected Senator, and before he resigned as governor of the State?

Mr. McCLURE. I suggest that all that is matter of record.

Mr. MORRILL. If the witness knows he can answer.

The WITNESS. I am unable to state. It is a matter of record.

By Mr. BARNES:

Q. Do you not know that at the time stated in the previous question there were four millions and a half of dollars granted as aid?—A. I do not know that. I am of the opinion, however, that there was some aid granted, although I have never examined the record in that respect, from the fact that there was one road that refused to accept the aid, or gave up the right to it.

Q. What road was that?—A. The Cairo and Fulton.

Q. Has any aid ever been granted to it?—A. None has been granted; aid was awarded to them.

Q. But did they not refuse to accept it?—A. I do not know just what the action was, but it was thrown up in some way.

Q. If such was the fact you would know it, would you not? If any aid had been received by the Cairo and Fulton road you would know it?—A. No bonds have been issued to that road.

Q. Do you not know the fact that the parties owning that road refused to receive any aid from the State; declined to take it?—A. I could not state. I could not say that such action was taken, positively; but I am of opinion that it was; that they declined, or took such action as amounted to that. I never examined the record in that particular.

Q. Were any of the railroads named, and which have or are entitled to receive State aid, incorporated before the law was passed granting such aid, referred to by you?—A. There were some incorporated.

Q. Name them.—A. The Memphis and Little Rock, I think, was one; the Mississippi, Ouachita and Red River; the Little Rock and Fort Smith.

Q. The Cairo and Fulton?—A. That is not one of the roads referred to in your question.

Q. That is the fact, is it not?—A. I think there is no question of its being correct.

Q. Have any of the roads just named by you been finished, or work done upon them, except the Memphis and Little Rock Railroad?—A. I understood that there had been some grading done on the Mississippi, Ouchita and Red River road before the war.

Q. But you do not know that, or how much?—A. I could not say. I understood there had been some grading done on that road, but to what extent I do not know.

Q. What is your understanding as to the extent of that grading?—A. I can hardly give an approximation; perhaps forty or fifty miles of grading were done, or partly done, before the war.

Q. How about the Little Rock and Pine Bluff road; was anything done on that?—A. I think there was a levee built, that perhaps they had used and perhaps not. I am not familiar with that. Perhaps there was a levee built, that they have used for the road-bed a little way. I have never been over either line.

Q. Was any work done on the Little Rock and Fort Smith Railroad?-A. I think there was no work done on that road.

By Mr. MORRILL:

Q. None done at the present time?—A. None before the passage the law awarding aid.

By Mr. BARNES:

Q. Was there not twenty miles of grading done in Crawford County?-A. I do not remember ever hearing of it if it was done; perhaps was, but I was not aware of that fact.

Q. What about the grading of the Cairo and Fulton road, in Jackso County, or elsewhere along the line?—A. I think I have heard the was some grading done.

Q. You do not know it of your own knowledge?—A. I do not kno anything about that, or to what extent.

Q. What is the entire length of the Mississippi, Ouachita and Re River Railroad?—A. I am unable to state that.

Q. Is it not 170 miles long?—A. It may be that and it may be longe I suppose that is an approximation to it.

Q. What proportion of that railroad is now constructed and put i running order?—A. To the best of my knowledge, about 30 miles.

Q. Is it not but 22?—A. I have no positive knowledge except by r port; I have understood about 30 miles.

Q. I understood you to say in your examination-in-chief that you ha heard Secretary White speak of resigning and leaving the State son length of time before the meeting of the legislature?—A. I think I d in my examination state that I heard him make the remark some tin before, that, on account of family troubles, and so forth, he had thougl of resigning.

Q. State whether his wife had not died and left him with a family c small children that he had to provide for.—A. His wife had died an he was left in an unfortunate condition with a family.

Q. State whether or not he has taken them from the State, if yo know, and where they are now.—A. His family have left the State, an are in Virginia.

Q. Has he been a resident of the State since that time?—A. He ha been back there and staid, I think, a few weeks, but he has been i Virginia most of the time.

Q. Do you know whether he now regards Virginia or Arkansas as hi home?—A. I am unable to state that.

Q. Have you any knowledge that the articles of impeachment agains Lieutenant-Governor Johnson were ever shown to Governor Clayto before their presentation?—A. I do not know anything about it. have no knowledge on that subject.

Q. Did Governor Clayton suggest to you the names of any of the pe sons whom you appointed to office?—A. Yes; I think he recommende some to me, asked me to appoint them if I would.

Q. Can you remember who they were or are?—A. I do not know that can. I recollect he spoke to me perhaps, at different times, and said "H is a good man," or something of that kind, or "He would make a goo officer."

Q. Were any of the names thus suggested to you by him the nam of members of the legislature?—A. There might have been. I thin perhaps there were one or two. I do not remember now definitely a to that.

Q. Do you remember how many members of the legislature you actually appointed to office?—A. I went over the list.

Q. I know you did, but I do not recollect the number.—A. I cannot tell you the number.

Q. Why were not the articles of impeachment against Lieutenant-Governor Johnson pressed to trial?—A. They were not found. The house voted them down.

Q. You have seen a statement of Senator Frierson in the senate journal, have you not, giving his reasons for not voting in favor of Mr. Riley having a seat as against Brooks?—A. I do not recollect that I have ever read it. Those things were placed on the journal without being read.

Q. He stated that his reason for not voting for it was because Brooks had not been allowed a hearing before the committee. Was that true or not?—A. I do not think Mr. Brooks had any hearing before the committee. I do not know about that. As I stated before, I did not meet with the committee in that case at all.

Q. Was there any change made on the supreme court bench of Arkansas from the date of the institution of this *quo warranto* proceeding to the date of its final disposition?—A. I think there was. I think Judge Bowen resigned during the pending of that *quo warranto.*

Q. Who was appointed his successor—Searle?—A. I do not remember how those successions came in. Mr. Searle and Mr. Bennett were put upon the bench; Judge McClure was appointed chief justice and that created a vacancy; but which one of the vacancies Judge Searle fills I do not remember. Judge Bennett fills one and Judge Searle the other.

Q. Do the committee understand you to say that, to the best of your knowledge and belief, there was no understanding between yourself and Governor Clayton, directly or indirectly, or between you and Governor Clayton's friends, in reference to any of the appointments you made of members of the legislature, or registrars, or any of the friends of Governor Clayton to office?—A. As I have stated, Senator Clayton spoke to me in relation to the appointment of some officers—I am unable now to state who they were—before he left; and my impression is some of them were members of the legislature, some appointed justices of the peace, perhaps.

Q. Was there any understanding, tacit or otherwise, between you previous to your election as president of the senate, as to those appointments, or were certain parties indicated with an understanding that they were to be the appointees?—A. Previous to my appointment?

Q. Previous to your election as president of the senate.—A. I presume that a request of that kind which Senator Clayton made, I might have said would be agreeable to me, or I had no objection, or "I think he will be a good man, and I presume I will appoint him."

Q. Do you know or do you believe that those requests were made from the consideration that Governor Clayton had received in the nature of support from those parties in his election to the Senate?—A. I, of course, cannot say anything about that.

Q. I am asking for your knowledge. Do you know or do you believe that there was any other reason that induced the resignation of Mr. White, secretary of state, than the fact that his wife had died and he wanted to take care of his children?—A. Yes; I think there was another reason, for he so stated to me.

Q. Was not that reason a political one?—A. Yes, sir, it was, to a certain extent.

Q. Did it not have relation to, and grow out of, the transaction which resulted in the resignation of Lieutenant Governor Johnson and his appointment to that office?—A. I understood it to be this, as the secretary stated to me, in substance, that he was willing to make any reasonable sacrifice for peace and harmony in the party and in the State, and if his resignation would assist in bringing about such a result he would be willing to resign. There was a great deal of excitement there at the time. It was feared by some that it was going to tend to injure our securities in financial circles, as it probably did; and every good citizen, I think, was desirous of having quiet.

Q. Is it your belief, from your knowledge of the circumstances surrounding this transaction—from facts which you knew at the time—that he resigned his office solely to produce harmony in the republican party?—A. I have no reason to believe otherwise than that and his family difficulties.

Q. You stated, I think, that the salary and perquisites of his office amounted to some $8,000 a year?—A. I should think about that.

Q. Did he receive any other pecuniary consideration, or any other place that had a salary attached to it, after he resigned?—A. He has not, that I know of. He is holding no position, to my knowledge.

Q. He did not go out of that office into another?—A. No, sir; he came immediately East.

By Mr. MORRILL:

Q. It seems that Governor Clayton, though elected United States Senator, was unwilling to take his place while there was a prospect that Lieutenant-Governor Johnson would succeed him?—A. Yes, sir.

Q. Up to a certain time, and while he was holding in this way, all these difficulties arose; I mean the attempts at impeachment, one way and another, of the chief justice, and Johnson, and the governor, as you have related; and, at a certain time, they were all adjusted in some way or other, resulting in the resignation of White, the appointment of Johnson, the second election of Governor Clayton to the Senate, and his resignation as governor, and your succession to the presidency of the senate, and consequently to the governorship. That was all done by arrangement of these parties, was it not?—A. I so understood it.

Q. Including White and Johnson?—A. No; White resigned; he gave the place for these other appointments.

Q. White resigned; Johnson resigned and took his place; Governor Clayton was elected to the Senate and resigned the governorship; and you were elected president of the senate, and succeeded to Clayton; and that was all done by participation of all these parties, at least?—A. Yes.

Q. Were you included in that, and knowing to it?—A. I stated that I had conversations with Mr. White and with Lieutenant-Governor Johnson in relation to Secretary White's resigning. It was uncertain who would be the successor of Governor Clayton; that would have to be settled by the senate.

Q. Had you any conversation with Governor Clayton about it?—A. I had some conversation with Governor Clayton.

Q. About this general arrangement?—A. About Secretary White's resigning.

Q. You said that as to White there was no consideration you knew of except to bring about harmony, and on account of difficulties in his family. What was it for Johnson?—A. He was to have the position of secretary of state; that is, he was appointed secretary of state. The lieutenant-governor's position was not a lucrative one. There was no pay attached to it.

By Mr. NORWOOD:

Q. What is the pay of that office; anything?—A. He receives pay during the session of the legislature only.

By Mr. MORRILL:

Q. What is the pay of the secretary of state?—A. I suppose about $8,000 a year.

Q. Do you not know that, in addition to all the other considerations you have stated in answer to Senator Morrill's question, it was agreed and understood that Secretary White was to be appointed to a foreign mission through the influence of Governor Clayton, and was not that hope held out to him also before he resigned the office of secretary of state?—A. I do not know that there was any talk of that kind. I have heard Secretary White say since—I heard him say in New York—that if he had aspirations at all, they were in that direction—for a foreign mission.

Q. Did he not say that that was one of the considerations that Governor Clayton agreed to, to get him out of that office?—A. No; he never told me that Governor Clayton agreed to get him a foreign appointment.

Q. Was it not notorious between all of you that White was to have a foreign mission, in addition to the other considerations that he received, independent of the harmony?—A. I have thought that he ought to have one, if it could be given to him. I think I have signed a petition to that effect.

Q. Was it not understood between you all that he was to have a foreign mission, and was not the hope held out to him by Clayton and his friends that, if he would do that, he (Clayton) had the influence, and would exert it at Washington to have him appointed?—A. I never heard Governor Clayton or Secretary White say anything in regard to that matter further than White said he would like a foreign mission if he was going to have anything.

Q. Was he not a man of moderate means?—A. I do not know what his means are; I suppose he is worth some property.

Q. He did not have much visible property, did he, or much property of any description?—A. He bought a very fine house.

Q. Did not that belong to his wife and children?—A. I do not know; I never heard who had the title to it.

Q. Do you not know that he has not title now to a single foot of property in the State of Arkansas?—A. I do not know.

Q. Is it not the fact that White was a poor man?—A. I understood that at the close of the war he was poor, or had not much means. Whether he had property that he could not realize from, or whether he had no property, I am unable to state.

WASHINGTON, *February* 3, 1873.

JAMES T. STORY sworn and examined.

By Mr. BARNES:

Question. Where do you live?—Answer. In Magnolia, Columbia County, Arkansas.

Q. How long have you resided in that county?—A. Nearly four years.

Q. Are you well acquainted in that part of the State?—A. Yes, sir;

I am pretty well acquainted in several of the counties in that part of the State.

Q. Were you residing in Columbia County pending the election of 1870?—A. Yes, sir.

Q. What is your business or calling?—A. I am editor and publisher of a newspaper.

Q. What newspaper?—A. The Magnolia Flower.

Q. What is its politics?—A. Republican newspaper.

Q. What are your politics?—A. I am republican.

Q. To which wing of the republican party do you adhere?—A. I believe they generally call them "Brindle-tails."

Q. Was or was not Governor Clayton in your county prior to the holding of the convention?—A. He was there; but I don't remember whether it was before our county convention or not. It strikes me, though, it was before; but I am not certain.

Q. Does your recollection serve you as to who accompanied him to that county?—A. His adjutant-general, Danforth, I believe.

Q. Is he the son-in-law of Hadley, the present governor of the State?—A. I believe so; I have been told that he is.

Q. He is Hadley's reputed son-in-law?—A. Yes, sir. Colonel O. P. Snyder was with him, also.

Q. Do you or do you not know of Governor Clayton having had any person employed to operate for him in the registration of your county, or in conducting or managing the elections, and if so, whom?—A. I cannot say that he had any body employed in that way. I can say that he had a man employed there.

Q. For what purpose; who was it?—A. His name was Frank Harris.

Q. What was he employed for?—A. He was employed to work in the interest of Governor Clayton; so he told me.

Q. In what way was he to work in the interest of Governor Clayton?—A. I do not know anything about the bargain. He worked with the democratic party there, I know, all the time.

Q. What did he tell you he was to do?—A. He told me he was to assist in having a ticket elected that was to vote for Governor Clayton for the United States Senate.

Mr. McClure renewed the objection heretofore made to the class of testimony now being given.

The committee overruled the objection on the statement of Mr. Barnes that Governor Clayton would, by testimony subsequently adduced, be connected with the transactions being inquired into.

Q. What was he to have for his services there?—A. He told me that Governor Clayton paid him $150 a month.

Q. Did you have any other evidence of his employment than what he stated to you in reference to the amount he was to receive?—A. He showed me a check or a draft drawn, as he said, by Governor Clayton. The check was signed by Governor Clayton for $150.

Q. Did you read the check and examine it or not?—A. I did not examine it minutely, but I looked at it and saw it was for $150, and signed "Powell Clayton."

Q. Are you, or are you not, familiar with the handwriting of Powell Clayton? Did you ever see him write, or correspond with him?—A. I had his signature in my office. I took it to be his signature.

Q. You believe, then, it was his genuine signature?—A. I believe it to be.

Mr. McCLURE. We admit it.

Q. (By Mr. BARNES.) What other evidences have you that he was or

was not in the interest of Governor Clayton? And if so, give the facts. —A. He was a very bad man, and he got into a difficulty in our town one evening, and he came next morning very early to my office and asked me if there was a warrant out for him. I told him I did not know whether there was or not. He remarked that, by God, he did not care anyhow, and pulled out some papers from his pocket and stated that they might convict him if they wanted, but he did not care, only for the bother; that he had three pardons there from Governor Clayton for any crimes that he might commit.

Q. Did he exhibit the documents to you or not?—A. He just pulled out papers from his pocket in a boasting style.

Q. What did they look like?—A. They looked like documents.

Q. Did they, or did they not, look like public documents or pardons? —A. I thought so.

Q. What crimes did he profess to have the pardons for?—A. He did not state. He said three different pardons.

Q. Did he speak of them as pardons already filled up?—A. He said they were already filled.

Q. Was that not also about the time he exhibited the check you referred to?—A. He exhibited the check a few days before that, if I remember correctly. That has been some eighteen months ago, or more.

Q. Did he, or did he not, take an interest in the election for Clayton?—A. On the day of election?

Q. Yes, and before.—A. He stated to me that he was in the interest of Governor Clayton a few days before the election, and he did, on the day of election, use his influence.

Q. Was, or was he not, active and boisterous in his operations for Clayton in the county?—A. Yes, sir; on the day of election he was.

Q. What crimes or offenses had he been charged with in the community, if any?—A. He was known among us republicans there as the negro-whipper and a persecutor of republicans generally. He was looked upon as an active Ku-Klux in our county.

Q. (By Mr. BARNES.) State if you know of his having committed any acts in violation of law, and if so, name them.—A. I know that he did.

Q. Tell what they were.—A. One I have just related: that he shot at one of our citizens there one evening when he was drinking, and came very near hitting him with a ball from his pistol.

Q. Was this before or after he exhibited to you the pardons from Clayton?—A. It was the next morning after he had shot this citizen that he exhibited them. He came around to my office and asked me if there was any warrant out for him for shooting a citizen, and he remarked. "I don't care anyhow, only for the bother," and he pulled out a paper and told me he had three different pardons in his pocket from Governor Clayton.

By Mr. MORRILL:

Q. You assume that they were pardons; and I infer from what has been said that the other side do not concede that. I should like to have you state specifically whether you, from your own observation, can say whether they were pardons or not.—A. He did not open them.

Q. What you mean to say is this, that this man drew from his pocket three papers which he said were pardons?—A. He told me they were pardons from the governor for three different crimes.

Q. That is the extent of your knowledge in regard to them?—A. Yes, sir.

Q. Whether they were filled up or whether they were signed, you do not know?—A. I do not.

Q. You know nothing except what he said?—A. That is all—just what he said about it.

By Mr. BARNES:

Q. You know that you saw the papers?—A. I know I saw the documents; they looked like documents.

Q. Did he tell you the crimes for which he had been pardoned?—A. He did not; he simply stated they were for three different crimes.

Q. Had he been charged with any crimes before that time, and if so what were they?—A. None other, except, as I have said, acting as a Ku-Klux in our county. The truth is, we republicans were all afraid of him after dark, and of all his sort. It was generally understood he was a very bad man as a Ku-Klux.

Q. What became of him?—A. He ran away from our place. He stole a shawl from our county judge and ran away.

Q. Have you any knowledge of his whereabouts?—A. It is reported that he went to Texas.

Q. Did you, or did you not, before the election of 1870, have the public printing for your county and other counties in Arkansas?—A. I had the public printing of Columbia County and I believe of Union County.

Q. Did or did not Governor Clayton withdraw that from you; and if so, for what cause?—A. Yes, sir; he withdrew the counties from me.

Q. Why?—A. I asked him why once or twice, but he never told me positively. I took it, it was because I would not support him in his course.

Q. What did he tell you that induced you to believe that it was because you would not support him in his course?—A. He referred to the course of the delegation from my county as being responsible for it.

Q. Charged you with being responsible for the course of the delegation from your county?—A. He seemed to want to hold me with them responsible. In other words, if they had acted right I could have had the public printing.

Q. What did he charge your delegation with doing as being wrong?—A. I believe it was opposing him in the legislature.

Q. Did they, or did they not, oppose him in the legislature?—A. A few days after the meeting of the legislature, I believe they did.

Q. Did you, or did you not, use your influence to induce them to oppose him in the legislature?—A. I did.

Q. Why?—A. I did not think his course was strictly republican and for the best interests of the people.

Q. Why did you not? Give your reasons.

Mr. MCCLURE objected to the question.

The committee sustained the objection.

Q. Who has the public printing in your county now?—A. The public printing of my county is done by a newspaper published at Camden, Arkansas.

Q. How far is that away from your county?—A. Forty miles.

Q. What is the public printing in your county worth? Is there much of it? Is it a matter of any object?—A. The public printing of my county, I should say, is worth about $1,800 a year.

By Mr. MORRILL:

Q. You were printing for your county and other counties?—A. I am uncertain as to my own county now.

Q. But you were printing for your own county and another county at the time it was taken from you?—A. Yes, sir.

Q. What were they both worth?—A. They were both worth over $3,000 a year.

Q. Where is that printing done now?—A. It is done at Camden, called forty miles from my place, in Ouachita County.

By Mr. BARNES:

Q. What paper is the public printing done by?—A. It is done by the South Arkansas Journal. I believe it is an official paper for eleven counties.

Q. To what political party do the editors of that paper belong?—A. I believe they are pretty near all what we call "Minstrels;" all, in fact, that I know anything of.

Q. Do you not take the paper at your office?—A. Yes, sir.

Q. Do you read it?—A. Yes, sir.

Q. You know the politics of the paper?—A. I do. I state positively that it is what we call "Minstrels" in opposition to the "Brindle-tail" party.

Q. State the character of the advertisements called public printing for your county.—A. Administrators' notices, successions, sales of delinquent lands, and such like.

Mr. McCLURE. There is a law on the subject saying what class of notices shall be published.

Mr. BARNES. I will agree, by the consent of the committee, that that law may be put in to show what is published under the term "public printing." [To the witness.] Have you or have you not made application to be restored to the public printing in your county by Governor Hadley?

The WITNESS. I demanded of Governor Hadley, as a republican, the public printing for my paper. The response was that matters were so fixed at that time that he could not give it to me, but Senator Clayton would be at home before very long and he thought arrangements might be made to give me the public printing; but he never did.

Q. How long was that after the election of Governor Clayton to the Senate?—A. Some time after; I do not remember how long.

Q. Did you receive any other information from Governor Hadley in reference to the matter?—A. No, sir.

Q. Did or did not Mr. Archer or any other person at any time produce to you a paper or communication from Governor Clayton threatening to deprive you of the public printing unless you supported his pretensions to the Senate?—A. My friends there wanted to nominate me instead of Mr. Wood for the legislature. Mr. Archer was opposed to me at the time for the legislature. My friends held a meeting and decided upon me in the place of Mr. Wood. Mr. Archer came to me and wanted me to tell him that I would not be a candidate. I told him if I was nominated I would be pretty apt to run. He remarked to me that it was not Governor Clayton's desire that I should go to the legislature, and I asked him why. He said he was not prepared to say just then; that was enough. I told him that would not satisfy me at all. He remarked, "By God, business is business," and "You know that I do business as a business man," and he pulled out a proclamation from Governor Clayton taking the public printing from me and giving it to the Red River Post, published at Louisville, if I did not withdraw my claims. His remark was, "If you let the niggers nominate you I shall send this to the Red River Post."

Q. Where was the Red River Post published?—A. At Louisville, Lafayette County.

Q. How far away from your county?—A. I believe twenty-five miles; I do not remember.

Q. Was the printing given to the Red River Post?—A. No, sir.

Q. What is the extent of the circulation in your county of the paper in which the public printing for your county is now done?—A. I do not know of a dozen to my own knowledge. I do not believe there are fifteen papers of the South Arkansas Journal circulated in my county. That is my belief about it. I am at the mail-opening often. There are very few copies that come to our county.

Cross-examined by Mr. McCLURE:

Q. Do you know D. J. Smith?—A. Yes, sir.

Q. Was he not a member of the legislature that was elected in 1868?—A. I was not in Arkansas in 1868.

Q. When did you go there?—A. In 1869.

Q. Was he not a member of the legislature in the session of 1869, and was he not a member of the legislature in 1870?—A. We elected him in 1870.

Q. Do you not know that he never was a friend of Governor Clayton in either the session of 1868 or 1869?—A. I did not know that.

Q. You did not know that he was one of the "immortal nineteen" who protested against the action of Governor Clayton in 1868?—A. I have heard it said; I did not know it.

Q. What do you know about the man Harris, of whom you have spoken?—A. I knew him.

Q. What was he doing down there?—A. I never saw him doing anything.

Q. What time was he there?—A. He was there pretty much all of 1870; he was in and out occasionally.

Q. How long was he there before the election?—A. I could not say for certain.

Q. Three or four months, was he not?—A. I should think he was there perhaps longer.

Q. He was there before the nominating convention came off, was he not?—A. I think he was.

Q. What did he seem to be doing around there?—A. He did not seem to be doing anything particularly. He ran with the democracy there pretty much all the time. I saw him pretty near every day.

Q. And his association was principally with the democracy?—A. Principally with the democracy.

Q. Had there been any disturbance or violence in your county, arising from what is known as the Ku-Klux at any time?—A. Do you mean in the same year with the election?

Q. At any time before the election?—A. Do you mean within a year of the election?

Q. Any time previous?—A. Two or three years before.

Q. You say he was reported to be a Ku-Klux?—A. We republicans understood him so.

Q. And his association was principally with men who were reputed to be Ku-Klux?—A. Yes.

Q. More than with the republicans?—A. I do not think he ever associated much with republicans.

Q. Would it have been advisable for him to have done so if he had been there as a detective?

Mr. NORWOOD. That is mere matter of opinion. It is argument.

Mr. McCLURE. I ask him if it would have been safe for Harris to have done so?

The WITNESS. To have done what?

Mr. McCLURE. To have been there in the character of detective of the Ku-Klux operations that had existed there, if he was associating with the republicans?

The WITNESS. As a spy do you mean?

Mr. McCLURE. Yes.

The WITNESS. I do not think so.

Q. Could he have been an efficient detective if he had done so?—A. I do not know anything about spying, and consequently cannot answer that question.

Q. You say that you saw the check of Governor Clayton. On whom was it drawn?—A. I do not remember now. My impression is, though, that it was on some bank in Little Rock. At that time I knew none of the banks in Little Rock, but I am under the impression that it was drawn payable at Little Rock.

Q. You say Governor Clayton withdrew the public printing from you?—A. Yes, sir.

Q. At what time was that?—A. I do not remember the date. It was about a year ago now.

Q. Was it before or after the election?—A. It was after the election.

Q. How long after the election?—A. You know how long it was from November, 1870.

Q. It was after that?—A. It was after that.

Q. Was it after his first election to the United States Senate?—A. I think he took one county away before his election to the United States Senate.

Q. Are you positive?—A. It was about then; but, as I remarked just now, I am not certain. I think it was before.

Q. When did the other go?—A. The other went pretty soon afterward.

Q. Was that before or after his election to the Senate?—A. The first county, if my memory serves me right, was so near the time that I cannot be certain as to that; but the first county he took from me I believe was before his first election to the Senate, and I think the next county was my own county, and that was taken before his second election. I do not give that for certain, but I believe so. It was so near the time that it was either before or just after.

Q. You say that he assigned to you no reason why he did that in your conversation with him?—A. No, he did not in his conversation. He seemed, as I remarked before, to hold the delegation from my county responsible for it.

Q. Do you mean to be understood as saying that he took this public patronage from you because the delegation from Columbia County did not support him for the United States Senate?—A. That was my inference from his conversation.

Q. That would be an opinion of your own, founded from no statement made by Governor Clayton?—A. It was just general conversation on the subject. I did not talk with him very long.

Q. Please state that conversation so that the committee may know the particulars?—A. I do not remember the conversation now, distinctly.

Q. You say you had conversation with Governor Hadley about the public printing?—A. Yes, sir; I said that I went up and demanded the

public printing of my county for my paper. I demanded it as a repu lican and as publishing a republican newspaper. I did not go to as him for it.

Q. You demanded it?—A. Yes, sir; I thought I had a right to do s

Q. What did Governor Hadley say?—A. He gave me to understar he would like to give it to me, and said matters were fixed up just a that time that he could not do it; but Governor Clayton would be hou before long, and he did not know but he could fix it up and let me hav it. He would like to be fixed so that he could do it.

Q. When was this?—A. I stated that I was not certain as to tl time. I think it was during the sitting of Congress last year; anyho Governor Clayton was here in Washington.

Q. When; in 1871 some time?—A. Yes; during 1871.

Q. What month was it?—A. I do not remember.

Q. Was it in the summer or the fall?—A. It was not in the fall; was earlier in the year than that.

Q. How long after the adjournment of the legislature?—A. I coul tell if I could remember the exact time I went up there; but I cann do it.

Q. The legislature adjourned on the 25th of April, 1871.—A. It wa after that, of course.

Q. Was it a month after?—A. I know it was a month after that.

Q. Was it two months?—A. I would not say that.

Q. Was it more than two?—A. I am not certain as to that.

Q. You have named the members of the senate and house from Colun bia County, elected in 1870. Do you not know that they joined th coalition composed of democrats and Brindle-tails which passed article of impeachment through the house against Governor Clayton, and di they not therefore vote against Governor Clayton for United State Senator?—A. I do not know anything of the kind. As to the fir proposition, I know that Captain Thompson told me he would swea that he never went into a caucus or meeting with a democrat in th city of Little Rock. Dr. Archer, senator, told me the same thing. I was charged on them when they went home, and they said they woul swear to the contrary.

Q. Were you there during that time?—A. I was there during the si ting of the legislature part of the time; not all the time.

Q. Do you not know, in point of fact, that they did vote with th democrats?—A. I do not know that. It was understood that the were in opposition to almost any measure that would arise gotten u by the Minstrels, so called.

By Mr. MORRILL:

Q. That is, they were opposed to Governor Clayton's party?—A. Yes sir.

Q. Do you publish a paper in Columbia County?—A. Yes, sir.

Q. What is the circulation of your paper?—A. I now have a circula tion of between seven hundred and eight hundred copies, as near as can recollect.

Q. Does this paper which now publishes the notices circulate in you county?—A. It is published at Camden.

Q. Does it circulate in your county?—A. I said I did not think ther were a dozen copies of it circulated in our county.

WASHINGTON, *February* 6, 1872.

JOSEPH H. SCALES sworn and examined.

By Mr. MCCLURE:

Question. Where do you reside?—Answer. In Perry County, Arkansas.

Q. Were you a member of the last legislature of Arkansas?—A. I was.

Q. Be kind enough to state with what political party you co-operated in the late legislature.—A. I co-operated at different times with, I suppose, different parties, or different factions of parties. I will class myself as having been connected with the conservative party. In other words, I acted as a conservative in the last legislature, and was elected upon that platform.

Q. State whom you voted for at the first election for United States Senator?—A. I voted for the then governor, Powell Clayton.

Q. Did you ever receive any compensation or consideration from Governor Clayton for that vote?—A. I never did, individually. If I understand the question to be in reference to his first election, I desire to answer that question again. I never received any consideration whatever.

Q. For whom did you vote at the second election?—A. I voted for the then governor, Powell Clayton, the second time.

Q. State whether or not you voted for Governor Clayton for the United States Senate upon any agreement or understanding that Governor Clayton was to issue to John Edwards a certificate of election as a member of the Forty-Second Congress from the third district of Arkansas.—A. There was no such understanding, no such consideration.

Q. Did you attend the democratic or conservative caucuses during the last session of the legislature?—A. I perhaps attended two.

Q. At either of those caucuses did you ever hear that proposition canvassed?—A. I never did.

Q. State whether or not you conversed frequently with other democratic or conservative members of the legislature?—A. Yes, sir; I did converse with them often.

Q. During your conversation with them did you ever hear the proposition intimated or hinted at that Governor Clayton was to give Edwards a certificate of election as a member of Congress in consideration of receiving democratic votes for the United States Senate?

The WITNESS. I have no such recollection.

Cross-examined by Mr. BARNES:

Q. Did not Governor Clayton after his first election, just before his second election to the Senate, approach you and ask you to vote for him as United States Senator?—A. He did not.

Q. Have you not told others that he did?—A. I think not.

Q. Did you not talk with Lieutenant-Governor James M. Johnson, the present secretary of state of Arkansas, in reference to this matter just after he was made secretary of state, and immediately preceding the second election of Powell Clayton to the Senate?—A. I did.

Q. Was not Governor Clayton then called in, or did you not go after him, and was not the subject talked of between you in reference to voting for him for Senator?—A. The subject was talked over between Governor Clayton and myself.

Q. At the time you conversed with Johnson in reference to it?—A. Immediately after.

Q. How long had Johnson then been secretary of state?—A. Only a few days.

Q. Was it before the election of Clayton to the Senate?—A. Yes, sir.

Q. Did not Governor Clayton, at that interview, assure you that certain men should be appointed magistrates in your county?—A. He did not assure me of any certain man. Governor Clayton assured me, however, that if I would name good men to fill the vacancies in different townships in my county, he would commission them.

Q. Did you not express to Governor Clayton in that interview a doubt whether Governor Hadley would carry out that promise?—A. No, sir; I expressed no such doubt.

Q. Was not Hadley brought there and consulted in reference to the matter at the same time?—A. Governor Hadley?

Q. Then senator, was he not?—A. Then senator and president of the senate. I suppose he was present during part of the interview.

Q. And agreed to it, did he not?—A. Governor Hadley would agree to do whatever Governor Clayton had said to him that he would do.

Q. Repeat that again; I did not get it fully.—A. Senator Hadley agreed to carry out whatever Governor Clayton had himself agreed to do, in the event that he should be his successor.

Q. Were Johnson, Hadley, and Clayton all present at that time?—A. They were not.

Q. Who was present besides you and Hadley when he was brought forward to make this assurance to you?—A. There was no one present except Governor Clayton, Senator Hadley, and myself.

Q. Then this agreement was made between you, Governor Clayton, and Hadley, who was then the president of the senate?—A. Yes.

Q. You say this occurred after Johnson was appointed secretary of state, and immediately before the election of Clayton?—A. Yes, sir.

Q. Did not Isaac Mills, of Little Rock, Arkansas, the present marshal of the United States for the eastern district, and the person appointed in the place of General Robert F. Catterson, also have a conversation with you upon that subject at or about that time?—A. About that time he did.

Q. On the same day?—A. Yes, sir; it was on the same day.

Q. He was the same man who was recommended by Governor Clayton for that position, was he not?—A. He is the same man that is now marshal of the eastern district. I do not know who recommended him; that is not for me to say.

Q. State what that conversation was.—A. It was simply to this effect; that as a friend of Mr. Clayton, Mr. Mills desired that I should support Mr. Clayton for the United States Senate.

Q. Did Mills and you talk about the appointments you desired to have made in your county at the same time?—A. We did.

Q. Did you tell him at that time that you had received assurances both from Clayton and Hadley that those appointments should be made?—A. I think it more than likely that I did.

Q. Is it not your best recollection that you did?—A. My best recollection is that in the conversation which occurred between Colonel Mills and myself, I agreed to support Governor Clayton for the Senate of the United States, and so informed him at the same time of the conversation that had passed between Governor Clayton and myself.

Q. And you informed him that if you supported Clayton for the Senate of the United States, Clayton was to have these appointments made for you?—A. He was not to have them made for me. He was to have them made for the benefit of my county; that they would be made for the

benefit of my county; Governor Clayton would make these appointments, filling the vacancies in the different townships in the county.

Q. You felt a very great desire, as the representative from your county, that your wishes should be carried out, did you not?—A. I did; not that my wishes should be carried out, but that something should be done for the benefit of my county.

Q. You were trying to do the best you could for your constituents?—A. I was trying to do the best I could for my constituents.

Q. You did vote for Clayton for United States Senator, as you stated? A. I did.

Q. Did you not consider, in consequence of your vote for him, under the circumstances, that you were entitled to demand the carrying out of that agreement that these men should be appointed?—A. Well, I considered when I voted for Governor Clayton for United States Senator, that these vacancies should be filled in my county, and that we should, at least, have the opportunity to correct the abuses that were obtaining there.

Q. Did you not afterward demand them from Hadley under that agreement, as a matter of right?—A. I did not demand them.

Q. Did you not ask or request them as a matter of right?—A. I had recommended to him the names of certain individuals, and Governor Hadley commissioned them. I did not demand it.

Q. Have you not complained to others since that time that all the assurances given to you by Clayton and Hadley were not carried out?—A. No. I wish it distinctly understood that Governor Clayton commissioned some persons, whose names I recommended to him as suitable to fill the office of magistrate, before he resigned. Governor Hadley commissioned others as Governor Clayton's successor; and that was before the legislature adjourned. On my return home I found that there were one or two vacancies in the county that had not been filled, and I recommended individuals to fill those vacancies to Governor Hadley, and if Governor Hadley has ever commissioned them it has not come to my knowledge; but Governor Hadley has told me since I came here that he does not recollect whether the commissions were sent or not. They may have been sent to the clerk of the county, to whom, perhaps, they should have been properly sent; but if so, the clerk has never qualified the individuals to act as magistrates in that county within my knowledge; and that is the only complaint I have to make in reference to Governor Hadley's not having fulfilled any pledges which Governor Clayton may have made to me.

Q. Did not some of the Clayton men intimate to you, or some other person in their presence intimate to you, that they had $40,000 to spend to carry the articles of impeachment against Johnson?—A. I heard the remark made that $40,000 was no money.

Q. Was that made to you at the time they wanted you to change your vote?—A. I did not say that any person ever made such an overture to me; and it was not made to me. It was simply in my hearing.

Q. Tell us who, according to your best recollection, made that statement?—A. I heard remarks of that nature made by different persons.

Q. Clayton men?—A. I think one individual, who made remarks to me concerning the influence of money in causing a change of votes, was a Colonel Johnson, from Arkansas County.

Q. Was he not a lobbyist for Clayton?—A. I do not know about his being a lobbyist.

Q. Was he not so understood?—A. According to the best information I could get, he was a friend to Governor Clayton.

Q. And he told you that $40,000 was no object?—A. I say tha the best of my recollection, Colonel Johnson was one; I would nc sert it positively.

Q. Do you remember any others who had such conversation with yo A. I do not know that I could call up any others; there were so n that were talking about this matter.

Q. Was it a common talk with the Clayton men that $40,000 wa object with them to accomplish their purpose?—A. I cannot say it I was not in the secrets of the Clayton men, exactly, and I cannot it was a common thing, because I did not converse with them par larly on the subject. There were those who came to our boarding-h and, as a matter of course, the topics of conversation would be i duced by one and another, and these remarks were made in a ki passing way.

Q. Did you not understand that if you had been in the market, could have got the $40,000 to change your vote?—A. If I had listen every report that passed through my ears, perhaps I should thought it.

WASHINGTON, *February* 7, 18

J. H. BARTON sworn and examined.

By Mr. BOWEN:

Question. Where do you reside?—Answer. Little Rock, Arkans

Q. What were your relations with Senator Clayton during the 1870 and 1871?—A. During 1870 I was his private secretary.

Q. At the time he was governor of Arkansas?—A. Yes, sir.

Q. At the time he was elected United States Senator?—A. Yes,

Q. State if you know anything in regard to the employment of Frank G. Harris by Governor Clayton?—A. He was employed as s detective.

Q. Where did he operate as a detective?—A. In Perry County for some weeks; then in Memphis; and afterward in Columbia Co and Lafayette County.

Q. At what salary?—A. He had a salary of $150 a month.

Q. Paid from what fund?—A. From the contingent fund of State.

Q. Have you any of the reports which that detective made of hi erations?—A. There were reports made. I had a statement from hi the time he first commenced.

Q. Produce that statement.

Mr. BARNES. I object to that.

Mr. BOWEN. Let him tell what it is.

A. It is a report of Frank G. Harris's trip to Texas, and a trip al Memphis.

Q. Was he regularly appointed for secret service?—A. Yes, sir.

Q. Regularly employed?—A. Yes, sir.

Q. What is the usual manner of employing such persons?—A. not a matter of record, generally. It is a private arrangement n with such persons as are necessary. In sending out detectives or two were killed, one previous to this man, and caution was requirec

By Mr. MORRILL:

Q. You know the fact that this new man was employed by Gove Clayton as a detective?—A. I do.

Q. In what service?—A. In the secret service, to examine into Ku-Klux matters in the southwest, in Columbia and Lafayette Counties.

By Mr. BOWEN:

Q. You say you were Governor Clayton's private secretary during all this time?—A. Yes, sir.

Q. Were you familiar with all his political movements?—A. I presume so.

Q. What, if anything, do you know about a trade having been made between Governor Clayton and General Edwards, or other parties for General Edwards, by which, in consideration of Governor Clayton receiving democratic support, Edwards was to be given his certificate as member of Congress from the third district?—A. I never heard any such trade talked of or spoken of in any way.

Mr. MORRILL. (To the witness.) State what facts the governor had before him when he acted upon that matter.—A. The facts were that the election in Pulaski County in some of the wards, and in a portion of the county, was claimed to be illegal. There were two sets of polls. They could not, of course, both be legal.

Q. (By Mr. MORRILL.) He had before him two sets of returns?—A. Two sets of returns, and those returns could not both be legal. The action of the legislature declared that certain polls——

Q. Did he have the action of the legislature before him?—A. He had the action of the legislature before him.

Q. You mean the report?—A. The report of the committee and the final action of the legislature.

Q. He had, then, the returns and he had the action of the legislature, including the report of the committee. What else?—A. That those polls were illegal by the votes at which Mr. Boles was claimed to be elected; and afterward the action of the supreme court upon the same question.

Q. Had he that before him when he decided?—A. He had the action of both before him when he decided.

Q. (By Mr. BOWEN.) Was or was not Governor Clayton in doubt as to what his proper course would be until up nearly to the time of issuing that certificate?—A. He was.

Q. And the question was finally determined after a full investigation of all these matters which were before him?—A. Yes, sir.

Q. What general line of policy was Frank Harris to pursue in order to carry out the business for which he was designated?—A. He was first to go to——

Mr. BARNES. Were not the instructions in writing?

The WITNESS. No, sir; not any.

Mr. BARNES. Then go ahead.

The WITNESS. In no case were instructions to secret detectives recorded. He was instructed first to go to Polk County, to investigate a murder that had been committed there. After spending some time, nearly a month, there, he went to Memphis for the purpose of securing the arrest of a person by the name of Fraulich, and two or three other parties who had been instrumental in the murder of a secret detective in White County. After that he was instructed to go to Columbia County for the purpose of ascertaining all particulars possible in regard to the organization of the Knights, order of Friends, and the Knights, order of White Camelia, to ascertain the names of the officers of that organization, and to assist in or attempt the capture of two men, outlaws, in Columbia and La Fayette Counties.

Q. (By Mr. BOWEN.) What was the offense committed by those men of whom you speak?—A. They had killed some parties down there; I do not remember who they were, but they had murdered persons in that section of the State, and a reward had been offered for their apprehension.

Q. How was this man instructed to conduct himself politically; what line of policy was he to pursue with a view of accomplishing what he was sent for?—A. He was told to make himself obnoxious to the republican element there, and to associate himself with the Ku-Klux organization.

Q. For what purpose?—A. For the purpose of ferreting out all secrets connected with that organization in that section of country.

Q. Was he, or not, instructed to get into the Ku-Klux dens, if possible?—A. He was so instructed.

Q. To affiliate with them?—A. To affiliate with them.

Q. Had, or had he not, before that time, been connected with the Ku-Klux organization?—A. He represented that he had been a member for a considerable period, or for some time.

Q. Was he or not required to report in writing at stated times?—A. He was.

Q. Have you any of those original reports which he made?—A. I have.

Mr. BOWEN. I should like to introduce one of these reports which the witness has.

Mr. BARNES objected.

The committee sustained the objection.

Q. (By Mr. BOWEN.) Was or was not this detective either directly or indirectly instructed to work for Governor Clayton for the office of United States Senator?—A. I never heard of any such direction in the world.

Q. Was his character such and were his associations such as would have enabled him to do any service in that direction?

Mr. BARNES. That is matter of argument.

Mr. MORRILL. (To Mr. Bowen.) You may ask any fact in regard to the man as to what his politics were.

Q. (By Mr. BOWEN.) Was Harris paid in his own name?—A. He was paid under an assumed name, as most of the secret detectives were, in order to prevent any danger to them from being known.

By Mr. MORRILL:

Q. Had you a secret-service fund?—A. The secret detectives were paid out of the executive contingent fund.

By Mr. BOWEN:

Q. State, if you know, what name he was paid in.—A. I think the name was Frank E. Moore. I think Moore was the last name.

Q. Why were so many precautions taken?—A. A short time previously a man in White County had been discovered to be a detective of the governor, and had been murdered, and danger was apprehended.

Q. Was this detective killed by the Ku Klux?—A. He was.

Q. Did you or not have almost the exclusive management of this detective force yourself?—A. Yes, sir.

Q. In regard to their employment, and pay, and directions, &c.?—A. The correspondence of this man was always to me, in order to avoid publicity, and in order that it should not be known he was connected with the governor.

Q. What was the custom in relation to the appointment of justices of the peace and minor executive officers throughout the State, and upon whose recommendations were these appointments made?

Mr. BARNES objected to the question.

The committee sustained the objection.

Cross-examined by Mr. BARNES:

Q. Are you the brother in-law of Governor Clayton?—A. I am.

Q. Do you pretend to tell this committee that you were immediately present at the time Governor Clayton made up and determined his action and issued the certificate to Edwards, in the secretary of state's office, or elsewhere?—A. I was present when he decided as to the action to be taken in the case.

Q. Do you pretend to say that you were actually present when the thing was done?—A. I do not pretend to say anything. I always say whatever I have to say.

Q. Do you say it?—A. Yes, sir.

Q. Where did that occur, and when?—A. When he made up his mind?

Q. No, sir; when he did the act.—A. I was not present when he did the act.

Q. You do not know, then, what he had before him when he did the act?—A. I know the evidence.

Q. How could you tell what he had before him if you were not present?—A. Because I had seen the evidence of it. I had heard him speak of it. It was matter of public notoriety.

Q. That is not an answer to my question. Tell the committee how you could tell what he had before him if you were not present at the time the act was done.—A. When he issued the certificate?

Q. Yes, sir.—A. I certainly could tell, knowing the evidence that he had before him, knowing the facts that he had before him.

Q. And not present?—A. I had been present with him repeatedly.

Q. But I am not asking you what you did, or what occurred before that time. What I am attempting to direct your attention to is, what he did at the time of issuing the certificate; what did he actually have before him at the time the act was done?—A. He had those facts which I have stated.

Q. Were you present?—A. I was not present when he issued the certificate.

Q. Then how can you pretend to say that he had anything before him, if you were not present?—A. I know what facts he had before him perfectly well.

Q. Without being present?—A. I was not present at the precise time he issued the certificate.

Q. Then how can you tell what he did have?—A. I know he had these facts.

Q. How do you know it?—A. Because I was with him at the time; I heard him speak of these facts.

Q. Have you not stated repeatedly that you were not present at the time the act was done?—A. Not at the precise time the certificate was issued.

Q. I do not ask you in reference to any other period of time, but directly in reference to the time the act was performed. Were you then present?—A. I was not present at the time the certificate was issued, but I know of all the facts on which it was based.

Q. Were you present in the office of the secretary of state when

Robert J. T. White, former secretary of state, made up and canvassed and ascertained the returns in the election between Boles and Edwards?—A. No, sir; I do not think I was. I have no recollection of it.

Q. Do you not know the fact that you were not present at the time?—A. I do not know. I cannot swear to that; I was in and out there so often. I saw them going through all the canvassing. I do not know that I was there at the precise second they were going through that or not.

Q. Is it not your best recollection that you were not present when White reached the result?—A. I do not know whether I was or not.

Q. Were you there at any time while White was canvassing the returns?—A. I was there when they were going over the returns.

Q. I am asking you, at the time White was actually engaged in canvassing the returns of the third congressional district, do you remember to have been present at any time while White was engaged in that?—A. I do not remember that I was; still I might have been there; I do not remember. I was in and out of that office very frequently.

WASHINGTON, *February* 8, 1872.

E. H. CHAMBERLAIN sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?—Answer. In the city of Little Rock.

Q. How long have you resided there?—A. I have resided in the county of Pulaski nearly six years; in the city of Little Rock two years; near there, six years.

Q. Were you a member of the general assembly of Arkansas at the last session?—A. Yes, sir.

Q. Elected from that county?—A. Yes, sir.

Q. Were you there at the organization of the general assembly?—A. I was.

Q. And during its session?—A. Yes, sir; I was present every day, I think.

Q. Were you a member of the house or senate?—A. Of the house.

Q. Did you affiliate with either side of the republican party there?—A. I was an indedependent republican.

By Mr. MORRILL:

Q. Does that mean a Johnson republican?—A. My sympathies were with what is known as the "minstrel" faction, or Clayton faction.

By the CHAIRMAN:

Q. State what you know, if anything, of any bargain or arrangement between Governor Clayton and Mr. Edwards, or his friends, by which, for the consideration of giving the certificate of election to Edwards, Governor Clayton was to receive votes for the Senate of the United States.—A. I knew nothing of any such arrangement.

Q. Did you attend the meetings of what were known as the "minstrels," or friends of Governor Clayton, when they were in caucus?—A. I did not. I was invited a great many times by members of the caucus to attend, but never did attend but once, and at that time the meeting was not called to order, so that I was never present at a caucus of the friends of Clayton after the legislature met.

Q. You say you have no knowledge of any such agreement or arrange-

ment as has been referred to?—A. If I understood your question, you asked me if I knew of any arrangement by which, in consideration of giving a certificate to Edwards, the friends of Edwards were to vote for Governor Clayton for United States Senator. I stated that I knew of no such arrangement.

Q. Friends of Edwards, or the democrats?—A. I knew of no arrangement of the kind.

By Mr. McCLURE:

Q. State if you at any time had a conversation with Mr. R. S. Gantt, a person who claimed to be entitled to a seat in the legislature, and what that conversation was; in relation to Edwards's certificate and to his own withdrawal from the contest in the legislature?—A. Colonel Gantt lived in the city of Little Rock, and represented himself and Dr. Mitchell, who lived some twenty-five miles from there, and was on the same ticket with him. I had several conversations with Mr. Gantt in relation to that matter. He was very anxious for General Edwards to procure a certificate as member of Congress, and he desired me to take charge of the matter so far as his seat in the legislature was concerned, and press his claims or withhold them, as I might think best, and as would be to General Edwards's best interests in the matter. I do not recollect any other conversation I ever had with him on the subject.

Q. State whether you communicated that conversation to Governor Clayton.—A. I do not recollect that I did. I might have done so. I had several conversations with Governor Clayton, but I do not recollect having done so.

Q. State whether or not you ever had a conversation with Governor Clayton in which he gave you any assurances, or any intimation, that he would issue a certificate of election to John Edwards in the event that he received the support of democratic members of the legislature for the United States Senate.—A. No, sir.

Q. State whether or not you ever had a conversation with Governor Clayton in which he assured you or intimated to you that the certificate of election would be issued to Edwards in the event that Mitchell and Gantt did not prosecute their claims to seats in the house of representatives of that legislature.—A. Perhaps it would be well for me to state what did take place, as I recollect it.

Q. Very well, state it.—A. I would be glad to state, if I be permitted, in the first place, that I favored General Edwards's election to Congress, because I agreed with him in certain political matters, and I had several conversations with him in relation to his election and to getting his seat in Congress. The returns in the secretary of state's office showed a majority of votes in the district for Mr. Boles, his competitor, and I could see no way by which he could get his seat in Congress unless the legislature should declare the election in certain precincts in Pulaski County null and void. I suggested to several members that course, and there seemed to be a disinclination to adopt that course, or to investigate what were claimed as frauds there, until finally it appeared to me that the objection was caused by a disinclination to unseat two members, which such action on the part of the legislature would have a tendency to do. Mr. Goad and Mr. Pilkington would be unseated in case the legislature declared null and void the elections in five townships in that county, and Messrs. Gantt and Mitchell would necessarily be admitted. It occurred to me that if Gantt and Mitchell would withdraw their claims to seats, it would relieve the fears of Goad and Pilkington and their friends and allow this investigation to go on. I suggested

that course to General Edwards, and he approved of it, and, with his approval, I submitted the matter to Governor Clayton, and my recollection is, that then, or soon after that time—not very long after that time—there was a resolution introduced in the house by Mr. Waters providing for a committee to investigate the frauds in that county. I believe that is about the sum and substance of the matter.

Q. State what Governor Clayton replied to that proposition when you submitted it to him?—A. At that time there were a number of others present, and I do not think Governor Clayton said much about it at that time; but I think I had conversation with him once or twice after that. I had proposed to see if Mitchell and Gantt would withdraw their claims, and I think he stated to me subsequently that he would not authorize me to act for him, or to make any arrangement whatever with them, or in his behalf. I think that was the language, or as near as I recollect it.

Q. State whether or not, if you recollect, Governor Clayton did not say to you, in one of the conversations to which you alluded, that if it appeared that Boles was elected he would receive the certificate, and that if it appeared that Edwards was elected he would receive the certificate.—A. I think Governor Clayton stated that he should be governed by the action of the legislature in the issuance of the certificate. That is my recollection of the conversation that took place; that whichever was determined to be elected by the action of the legislature would receive the certificate.

Q. That he would be governed by that entirely?—A. Yes, sir; that is my recollection.

Q. Can you state whether the last conversation referred to occurred before or after Governor Clayton's first election to the United States Senate?—A. It would be impossible for me to state. It was about the time of the election.

Q. The first or second?—A. The first election; but it might have been two or three days previous; it might have been two or three days after; I cannot state.

Cross-examined by Mr. BARNES:

Q. You stated that various persons were present when you first talked in reference to Edwards's certificate besides Governor Clayton. Will you state, if you remember, who the persons were?—A. I do not know that I recollect all of them. I recollect going out afterward and telling General Edwards that I had met four persons, the governor and three others. I recollect that Judge Bowen was present and Mr. Tankersley, the speaker of the house. I cannot say positively as to the other one.

Q. State, if you remember, when and where that conversation occurred.—A. It was in the executive office.

Q. Is there anything in your mind that fixes about the time of the conversation?—A. I could not fix it exactly; it would be impossible for me to do so. I know it was soon after the assembling of the legislature.

Q. Was it not before his first election to the senate?—A. That is my impression. I think it was the first week of the session.

Q. Was it after the legislature assembled?—A. Yes, sir; it was while the legislature was in session, and soon after its meeting.

Q. How long had John Edwards been there?—A. I do not recollect.

Q. Do you not recollect that John Edwards was the other man who was present at the conversation?—A. No, sir; it was not he, I am posi-

tive. My recollection is, I will not be positive, but I think Judge Bennett was present.

Q. Is he at present a judge of the supreme court?—A. Yes, sir.

By Mr. BARNES:

Q. I will ask you if just about the time or before Clayton's second election he did not approach you and ask you to vote for him?—A. About the time of his second senatorial election?

Q. Yes, sir; at or before his second election, between the two periods. —A. I had some conversation with Governor Clayton on that subject. I think he asked me if I was going to vote for him.

Q. What did you tell him?—A. To the best of my recollection, I told him I did not know whom I should vote for; that I had not decided.

Q. Did he not propose if you would vote for him to make out a commission at once for you for magistrate?—A. The best of my recollection is that Governor Clayton wanted that I should vote for him for the Senate. I know we had some conversation about that matter.

Q. It is a little delicate, perhaps, but I put the question right square up: did he not make that proposition to you?—A. Before I answer that I would like to state that some time before that, perhaps nearly three months before that, I had applied and been recommended to Governor Clayton as a suitable person for magistrate in that place, and I think Governor Clayton told me if I would obtain the recommendation and petition of the attorneys and business men of the city of Little Rock he would give me a commission.

Q. At the time he applied to you to vote for him?—A. No, sir.

Q. Before that?—A. Yes, sir; about the time the legislature assembled, to my recollection.

Q. Now, did he not again, and before his second election, just before his second election, approach you and ask you if you intended to vote for him; and when you made the reply to him you have given did he not then right square out propose to you that he would make out your commission at once for you as a magistrate if you would vote for him?—A. I think Governor Clayton stated to me that he would give me a commission as justice of the peace, and would make it out then if I desired.

Q. If you would vote for him?—A. Yes, sir; that is my recollection of the conversation.

Q. Did he not afterward make out that?—A. I desire to state further, however, that I declined. I went on to state to Governor Clayton that I would not cast a vote for United States Senator for any consideration of that kind; that I was undecided whom I should vote for; and further than that, I stated to Governor Clayton that I would not state to any person whom I should vote for; that no one would know until I should cast my vote.

By Mr. NORWOOD:

Q. Did you afterward vote for Governor Clayton?—A. I afterward voted for Governor Clayton.

By Mr. BARNES:

Q. Did you not afterward receive your commission as a justice of the peace for Big Rock Township, Pulaski County, Arkansas, and are you not now acting as such justice of the peace?—A. I received a commission signed by Governor Hadley for that position; but I desire to state further that I did not receive that commission in consideration of my vote for Governor Clayton to the United States Senate. I received

that commission as I understood it, and as I now understand it, upon the consideration of having filed a petition in the executive office signed by nearly all the attorneys and business men and citizens generally of the city of Little Rock. I desire to state further, that at the moment of the election I cast my vote for Governor Clayton, because I believed that it was useless to vote for any one else; that Governor Clayton would be elected, and votes against him were only thrown away.

Q. Were you classed as a democrat during the sitting of the legislature?—A. I do not think the democrats classed me so.

Q. Were you not so estimated by the community generally at the time?—A. I do not think I was; I was understood in the community to be an independent liberal republican.

Q. Do you mean to be understood by that that you did not affiliate either with the Clayton men or the "Brindle-tails?"—A. Yes, sir; I mean to state, as I stated yesterday, that my sympathies in the differences which had sprung up between republicans were with Governor Clayton.

Q. How long had your sympathies been with him before you were elected to the legislature?—A. Several months.

Q. Is it a fact that it was contemplated in some form or other to raise the question so as to bring about Johnson's impeachment?—A. I think there was some talk about bringing it again before the house, if I recollect; I am not positive.

Q. Were you not during that time approached upon the subject, and, if so, by whom?—A. I never had any further conversation with Governor Clayton on the subject.

Q. I do not ask you if you had any further conversation with Governor Clayton, but I ask you if you were not approached upon the subject; and, if so, by whom? I did not ask you directly if Governor Clayton approached you, but I asked you the question, were you not approached upon that subject, and, if so, by whom?—A. Yes, sir; there was a man came to me and spoke to me about it.

Q. Who was the man?—A. Lucien J. Barnes came to me and spoke to me about it.

Q. Who is he?—A. A citizen of Little Rock.

Q. What position did he then hold?—A. I do not think he held any official position.

Q. Had he held any official position before that time, or has he since?—A. I think he was chairman of the republican county committee, and is now, I think.

Q. Was he not an active and warm friend and supporter of Governor Clayton at that time, and has he not so continued?—A. Yes, sir; he always has been.

Q. Now, has he not since that time received an appointment or position, and, if so, name what it is?—A. I think he was appointed by the board of inspectors of the State penitentiary as store-keeper.

Q. What was that office worth?—A. A salary of $2,000 per annum, fixed by law.

Q. What did he indicate to you or say in reference to that matter about money, or offices, or inducements? Tell all he said.—A. If I recollect aright, Mr. Barnes came to me and said that it was desired to impeach Lieutenant-Governor Johnson, and asked me if I could not be induced to vote differently. He went on to state that he was authorized to ask me what would induce me to vote differently—to vote for Governor Johnson's impeachment. I told him nothing would induce me. He stated that he was authorized to offer me anything that I wanted, and that

if it was money to name the amount that I wanted. I replied to Mr. Barnes that he and I had always been good friends, and I desired to remain so; that if he said another word on that subject, I should take it as an insult; that I excused what he had said, but that if he said another word on that subject, I should receive it as an insult. There was nothing further said on the subject.

By Mr. NORWOOD:

Q. Did he indicate from whom that proposition came?—A. Yes, sir; he indicated that he came from Governor Clayton, or that he was authorized by Governor Clayton.

By Mr. BARNES:

Q. Did he not intimate that he was authorized to use $40,000 to accomplish that purpose?—A. No, sir; I never heard any amount named at all.

Q. Did you not hear that from others, and was it not freely talked of?—A. I never heard anything about the $40,000.

Q. Have you given everything that he said, as well as you remember, upon that occasion?—A. Yes, sir; I do not think of anything more.

Q. Did you visit the executive office during the time the impeachment articles against Governor Clayton were pending in the house?—A. Yes, sir; occasionally; not very often.

Re-examined by Mr. MCCLURE:

Q. You have stated that some three months before Clayton's second election you had a conversation with him on the subject of appointing you justice of the peace, in which he agreed to appoint you. Did he at any time withdraw his promise between the time of the first election and the second election?—A. He never did. He told me several times that he would appoint me if a vacancy occurred.

Q. Then his last offer to appoint you was in fulfillment of the original agreement?—A. I understood it so. The last conversation I had with Governor Clayton, I stated to him that if I could not have that appointment in consideration of the recommendations which I had filed in that office, I did not desire to have it at all; that that was the only condition on which I desired it.

Q. You stated that you had two conversations with Governor Clayton in regard to issuing a certificate to General Edwards. State how long after your first conversation it was when the second conversation, to which you have testified, occurred?—A. It would be impossible for me to fix any dates.

Q. Can you not approximate to it?—A. No, sir; I would not undertake to do so. I have no recollection whatever on that matter.

Q. Was it a week?—A. If I was to make any statement, it would be merely a rambling guess, because there is nothing to fix the date or the time in my mind.

Q. Were Judge Bowen and Mr. Tankersley present at the first conversation or the second?—A. Judge Bowen and Mr. Tankersley were present at the time that I submitted the idea to Governor Clayton to obtain the withdrawal of Gantt and Mitchell's claims, in order to facilitate the investigation by the house.

Q. Was that your first or second conversation with Governor Clayton on that subject?—A. I think I had had some talk with Governor Clayton before that. I think I asked the governor once previous to that whether he was not going to give General Edwards his certificate; and he told he did not know; he did not think he would.

Q. Then your impression is that this was the second conversation,

that at which Tankersley and Bowen were present?—A. If I stated y terday that I had two conversations, and two conversations only, wi Governor Clayton, on the subject of that certificate, I desire now correct, because I think probably I spoke with Governor Clayton two three, perhaps four, times on that subject.

Q. How long before Gantt sent his letter to the house was it that y had the second conversation with Governor Clayton; and who was pr ent at that conversation?—A. I have no recollection that any one ev was present at any conversation I had with Governor Clayton, exce at the time I have alluded to, when Judge Bowen, Mr. Tankersley, an (though I am not positive as to Judge Bennett,) I think, Judge Benn was present; I know there were four persons there.

Q. How long before Gantt sent his letter to the house was it that y had your second conversation with Governor Clayton; and who w present at that conversation?—A. It was some time before Gantt se his letter in which he alluded to this arrangement.

Q. Is that the letter which appears in the journal of the house?— All the conversations I had with Governor Clayton on this subject we some time, I cannot say how long, before.

Q. Was it a week?—A. I think so.

Q. Was it more than two weeks?—A. I cannot state that. I c state that quite a lengthy period elapsed.

Q. Was it more than two weeks?—A. It would be impossible for r to state. My recollection of dates is very deficient. Unless somethi has fixed a date in my mind I never remember it.

WASHINGTON, *February* 13, 1872.

MET. L. JONES sworn and examined.

By Mr. BARNES:

Question. Where do you reside?—Answer. At Pine Bluff, Arkans

Q. What county?—A. Jefferson.

Q. How long have you resided in the State of Arkansas?—A. Nea thirteen years.

Q. What is your business or profession?—A. Attorney at law.

Q. Where did you reside in 1870 and 1871?—A. In Calhoun Coun Arkansas.

Q. At what place in Calhoun County?—A. Hampton.

Q. Is your acquaintance with the people of Arkansas limited or tensive?—A. I have rather an extensive acquaintance with the peo of that State.

Q. In how many counties have you practiced your profession; wh length of time have you been engaged in said practice; and is it li ited or extensive?—A. Generally about ten counties—Hot Sprin Hempstead, Ouachita, Columbia, Calhoun, Dallas, Union, Drew, Br ley, and Jefferson.

Q. What congressional district are those counties in?—A. The seco

Q. Who represents it at present in the Congress of the Unit States?—A. Hon. O. P. Snyder.

Q. Is there any question or contest in reference to his right to a se in Congress?

Mr. MCCLURE objected to the question.

The committee overruled the objection.

A. Anthony A. C. Rogers has inaugurated a contest, and served notice of contest.

Q. Was your practice in the counties you have named limited or extensive?—A. I have rather an extended practice there.

Q. What length of time have you been engaged in said practice?—A. About twelve years.

Q. Has your practice been extensive during all that period of time; and, if not, what length of time has it been so?—A. Since within a year or so after the war my practice has been very extensive; really more than my attention would admit of carrying through.

Q. Have you ever taken any part in the politics of the State of Arkansas?—A. Yes, sir, some little.

Q. To what extent? Name any political position you have held.—A. I was a member of the legislature one term.

Q. At what time?—A. In the session of 1866–'67.

Q. Have you held any other political position, or taken part in political discussions?—A. I was one of the candidates for presidential elector there in 1868.

Q. On what ticket?—A. Seymour and Blair.

Q. Did you canvass the counties you have named?—A. I believe I canvassed fourteen counties.

Q. Did they embrace the counties in which you have practiced your profession?—A. They did.

Q. Are you acquainted with Senator Powell Clayton; if so, how long have you known him, and in what capacity?—A. I have known him as governor of the State since his inauguration. Personally my acquaintance with him is very limited.

Q. Do you know anything about said Clayton having been a candidate for the position he now holds in the Senate of the United States? If so, how long before his election was it or not generally understood throughout the State of Arkansas, and especially in your part of the State, that he was a candidate for said office before registration commenced in said State in 1870? State all the facts and circumstances within your knowledge on the subject.

Mr. McCLURE. We object to so much as asks him to state his understanding of anything. He may state such facts as he knows.

The CHAIRMAN. (To the WITNESS.) Proceed and state the facts which you know in reference to such candidacy, and when you first knew it.

The WITNESS. From Governor Clayton I knew nothing about his candidacy before the registration. In my section of the country it was generally understood and canvassed that he would be a candidate before the ensuing legislature for the United States Senate.

By Mr. BARNES:

Q. State all the facts and circumstances within your knowledge connected with the matter.—A. I have stated about all I know in relation to his candidacy.

Q. Did or did he not canvass the State of Arkansas, or part of it, in 1870, prior to registration and his election; and, if so, what was the object of his canvass? State the facts.—A. Outside of the campaign, in a mere political way, I do not know that he took any part in the canvass anterior to that time. As far as his announcement of his future application for position in that campaign was concerned, I know nothing of it.

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ate of Arkansas, or part of it, in ction; and, if so, what was the s.—A. Outside of the campaign, w that he took any part in the ar as his announcement of his fu- campaign was concerned, I know

Q. Is that your only answer to the question?—A. As I understand the question, it is.

Q. State all you know of anything in reference to registration in your State in 1870. Was it fair or unfair? If not fair, state minutely all the facts and circumstances connected with the registration of an unfair nature or character; if Senator Clayton had any agency therein or information of any complaints on the part of the people of the State or any of them in reference to unfairness of registration, state the facts within your personal knowledge.—A. In Union County, I was there a good deal during the campaign, and observed the manner in which registration was conducted, and I know of my personal knowledge that there were between seven hundred and a thousand men refused registration who went forward and proposed to take the oath of franchise prescribed by the constitution of the State. As a mere matter of opinion on these facts, and speaking from my standpoint, (which is to be taken *cum grano salis*,) I regarded the registration as very unfair. In response to the latter part of the interrogatory as to whether Governor Clayton had any information from the people in regard to it, I would state this: that a delegation of Union and Columbia met at Camden for the purpose of visiting Governor Clayton, to acquaint him with the manner in which registration was being conducted in those two counties, and they selected Judge John F. Bearden, of Camden, and myself to interview Governor Clayton in relation to the matter. We went to Little Rock and had an interview with Governor Clayton in relation to it. I told Governor Clayton that I had come there to represent the people of Union County and Columbia County, in conjunction with Judge Bearden, in reference to the matter, and told him there had been several hundred persons refused registration, and that a day had been fixed by the registrar, in his rounds through the various townships, for those parties who had been refused to come and have a new hearing, and that on that day a great many of them came, and the registrar announced to a number of them that the registration as to them was closed, and he would not open the books further; that in the afternoon of the same day a concourse of voters came in from the country, who, it was generally understood, would vote his ticket, and that the registrar opened his books and permitted them to register, and immediately upon that being completed closed the books again; and I suggested to Governor Clayton that the people were very much excited and chagrined at the manner in which registration was being conducted, and that we had come with a view of seeing if he would not remedy it. He replied that my statement was a mere *ex-parte* statement, and that probably if the registrar was there he would deny it. I told him I was willing to be sworn to what I had stated, and, in addition to that, I had some fifteen affidavits of substantial citizens of the county verifying the same facts. He said yes, but those statements were merely *ex parte*. I suggested to him, then, that he give the registrar a day to be heard, and we would bring forward testimony enough to substantiate the facts that I had alleged. Governor Clayton said that the time was then too short to go into an investigation of that kind, and declined to do so. I then spoke to him about the removal of the registrar and the appointment of another. Governor Clayton said he did not conceive that he had the authority to remove a registrar. A little controversy arose between Judge Bearden and himself in relation to his authority, in which reference was made to some removals of registrars before. Governor Clayton said yes, he had done it, but now upon reflection he rather regretted it, as transcending

his authority. The registration act was taken up by Governor Clayton and referred to, and he called our attention particularly to the first section of it, which said that the governor, by and with the advice and consent of the senate, should appoint registrars; and the governor said on his construction of that law he did not conceive that he had the authority to remove a registrar, but remarked that he would refer the matter to the courts of the country. I told him, very well; we would accept that disposition of it, and would carry it to the courts of the country. I asked him the question then, directly, if he would interfere with us. He said not till after the election. I suggested that possibly it would bear more the appearance of spleen and vengeance to attempt it after the election, and that our real object was to take this course for the purpose of securing a fair registration in the county. He said that to allow that now would be to interfere with the registration, and that he could not submit to it; he could not allow us to interfere with it before the election. In alluding to the registrar of the county, Mr. George A. Wilkins, Governor Clayton asked me if he did not register there before. I told him he did at the previous election. He asked me if his registration had not been perfectly satisfactory. I simply said, in justification to Governor Clayton, that his previous registration had been perfectly satisfactory, but that the present certainly was not. I do not remember anything further.

Q. Was anything further said between you in reference to his using force in any way if you attempted to proceed?—A. It has been a long time ago, and my memory was not charged with it at the time, further than the nature of the interview would impress it upon me. He said that he would take steps. My impression was by the militia, if necessary. I am not sure on that point, however, what his exact language was; but that was the impression left upon me.

Q. Did he, or not, tell you that if you undertook to resort to the courts before the election, or correct the abuses in registration, he would send the militia upon you and treat you and yours as insurrectionary? State what he said, if anything, on these subjects.—A. My impression is that he said if we attempted to arrest these registrars for violation of the registration act anterior to the election, it would be an interference with the registration of the county, something he, as executive, would not tolerate, and he would, if necessary, have to send force in there and treat our movements as insurrectionary. My recollection of the language is to that effect.

Q. Who were the men engaged in registration in that county at the time? How many counties were you and Bearden there to represent?—A. Columbia, Ouachita, and Union, I think; particularly Columbia and Union.

Q. Did they or not have large voting populations?—A. They did. They are what we call in the West large counties.

Q. What was the politics of the men in those counties appointed to register the voters? Were they Clayton or anti-Clayton men?—A. They were all Clayton men in Union, I know; in Ouachita I do not know really whether their personal preferences were for Governor Clayton. They were republicans.

Q. Do you know any man appointed in any of these counties, or in any county of the State of Arkansas, that was not in favor of Clayton? If so, name the man.

Mr. BOWEN objected to the question.

The committee overruled the objection.

A. I do not of my own knowledge.

Q. (By Mr. BARNES.) Do you know of any of the registrars appointed by Governor Clayton in 1870, and who acted under him, who were afterward appointed to office by him or through his influence?

Mr. BOWEN objected to the question.

The committee sustained the objection.

Q. (By Mr. BARNES.) To meet the view of the committee I will change the question. I ask the witness whether any of these registrars after that acted as officers; and, if so, in what capacity?—A. I have not any very definite recollection, generally, in regard to that. A. L. Cotton was president of the board of registration of Hot Springs County, and he was at the time, and I think is now, clerk of Montgomery County. George A. Wilkins, who registered Union County, is now a justice of the peace, or acting as justice of the peace. I have never seen his commission. In Calhoun County, W. H. Atkins, one of the registrars of Union County, is a justice of the peace there.

Q. Any others that you remember?—A. I do not remember any others now.

Q. What time, after registration ceased, did they commence to exercise the offices you have named?—A. I do not know. I do not remember.

Q. Was it afterward?—A. As I stated, Cotton, at the time he was appointed president of the board of registration, was clerk of Montgomery County. Wilkins has removed to Calhoun County since that time, say within the last six months, and has been acting as justice of the peace there.

Q. Do you undertake to say that Cotton, who registerd Hot Springs County, at the time he acted as registrar, was not a citizen of the county that he registered?—A. He was not.

Q. What county did he then live in?—A. At Mount Ida, Montgomery County, and was clerk of the county.

Q. Where did the other officers of registration, who assisted him in the registration of Hot Springs County, live at the time of the registration, and who were they?—A. One, a Mr. Littleton, lived in Hot Springs County. I do not remember who the other was.

Q. What is the name of the other gentleman you referred to?—A. Wilkins.

Q. Where did he live at the time he registered Union County?—A. He resided in Union County at that time.

Q. Is he now exercising any other office?—A. I spoke about his being justice of the peace in Calhoun County. He has removed to Calhoun and been appointed justice of the peace there. He claimed to me to be assessor of the county.

Q. Has he been acting in that capacity?—A. There have been no assessments made since his arrival there.

Q. If he is assessor, then, would he not, under the laws of Arkansas, have the next registration?

Mr. BOWEN. I object.

(The committee sustained the objection.)

By Mr. BARNES:

Q. State where you and Judge Bearden had the interviews with Governor Clayton in reference to the registration of the counties you have named?—A. At the Capitol, in the executive office.

Q. About what time?—A. My recollection is indistinct about that, but I will say about ten or fifteen days prior to the election. I remember well that one of the objections he offered was that he did not have *time.*

WASHINGTON, *February* 14, 1872.

CASWELL B. NEAL sworn and examined.

By the CHAIRMAN

Question. Where do you reside?—Answer. I reside in Sebastian County, Arkansas.

Q. How far is that from Little Rock?—A. By land, I suppose it is about 160 miles; by water, probably 300 miles.

Q. How long have you resided there?—A. Since January, 1860.

Q. Were you in Little Rock in the winter of 1870-'71?—A. Yes, sir.

Q. Were you a member of the general assembly?—A. I was.

Q. From Sebastian County?—A. I represented three counties, under the peculiar manner of electing.

By Mr. MORRILL:

Q. Are you a native of that State?—A. No, sir; I am a native of Tennessee.

Q. How long have you been a resident of Arkansas?—A. I moved there in January, 1860.

By the CHAIRMAN:

Q. Were you a member of the senate or house?—A. Of the house.

Q. Do you know anything of any trade, arrangement, or bargain of any kind or description between Governor Clayton and Mr. Edwards, or the friends of either, by which, in consideration of the granting of a certificate of election to General Edwards, Governor Clayton was to receive the votes of democrats or others for the Senate of the United States?—A. I know nothing of any trade of the kind; it never came to my knowledge.

Q. Were you a member of any of the investigating committees? it seems there were several.—A. I do not think I was; I was a member of the judiciary committee, and one or two other standing committees.

Q. Were you a member of the impeachment committee?—A. There were two impeachment committees; I was chairman of the last impeachment committee.

Q. For the impeachment of Governor Clayton?—A. Yes, sir.

By Mr. MCCLURE:

Q. Be kind enough to state whether or not you were elected to the legislature as a republican?—A. No, sir; I was elected as a conservative.

Q. Did you attend the democratic or conservative caucuses that were held in the city of Little Rock during the sessions of the legislature?—A. I suppose I was at most of them.

Q. At any of those caucuses did you hear the subject of such a trade at any time canvassed?—A. I do not think anything of that kind was ever before the democratic caucuses of members of that legislature.

Q. State whether or not you at any time ever heard any member of the legislature indicate that there was any such trade as has been referred to in the questions that have been asked you?—A. No, sir; I never heard of any trade of that kind at all; I never heard of any trade of that kind until I saw it announced in the papers that these charges were made against Clayton.

Q. State whether or not at any democratic caucus you attended you ever heard the subject canvassed that a certificate of election would be issued to Edwards in the event that Gantt and Mitchell withdrew their

claims to seats in the house?—A. I do not recollect ever hearing th subject mentioned either.

Q. I understood you to say that you had been appointed chairman the board of managers to prosecute articles of impeachment again Governor Clayton. State how that appointment came about.—A. was appointed by the speaker of the house.

Q. Had you or not any knowledge that you were to receive that a pointment before it was made?—A. No; I knew nothing about it; at th time I had very little confidential communication with the speaker his friends.

Q. State whether in the course of your examination as a member the committee by the house, to prosecute the impeachment, you h occasion to examine the records on file in the office of the secretary state and other offices in relation to the award of State aid to railroad and the issuing of bonds thereto?

The WITNESS. I did examine the records.

By Mr. MCCLURE:

Q. State whether or not the report made by the impeachment co mittee to the house was based upon that examination, so far as it relat to the railroads of the State?

Mr. BARNES. I object. The record shows for itself.

Mr. MCCLURE. Then I will hand the witness the report of the man gers, as contained in the house journal, and ask him to identify it.

Mr. BARNES. I understand that that journal is before the committe

Mr. MORRILL. (To Mr. Barnes.) You make no question that that is t report?

Mr. BARNES. Certainly not. We admit that that book is the journa and may be used in evidence by either side.

Mr. MCCLURE. Having secured that admission, I will not procee further with that line of inquiry. (To the witness.) State whether or n at any of the democratic caucuses to which you have referred a class members of the legislature known as "Brindle-tails" were present.

The WITNESS. I do not think there were any Brindle-tails who ev participated in the caucus; sometimes they visited it.

Q. Did you present articles of impeachment as chairman?—A. N sir; the specific articles of impeachment were never drawn up.

Q. You were chairman of a committee who reported something?—A I was chairman of a committee appointed for the purpose of preparin those articles for presentation to the senate; but, as that report wi show, I never could find sufficient proof against Powell Clayton on whic to base them.

Q. Did you present them; were articles ever presented to the house?-A. No, sir.

Q. The resolution to impeach was passed before you were appointed?-A. The resolution of the house was passed before I was appointed.

Q. Then you were appointed to present the matter to the senate?-A. Yes, sir; to prepare specific articles of impeachment.

Q. Did the resolution for the impeachment of Governor Clayton ori inate in a caucus to your knowledge?—A. I do not know that I am ce tain where it originated. The writing of it did not originate in a caucu The matter was written out and afterward submitted to the caucus.

Q. Was the introduction of the resolution a subject of consideratio in a caucus?—A. It was spoken of in the caucus frequently.

Q. In what caucus?—A. The democratic caucus.

Q. Was it resolved upon there?—A. Well, I am inclined to think that it was.

Q. Were you present?—A. Yes, sir; I was present.

Q. Do you not know whether it was or not?—A. My recollection is that it was.

Q. Resolved to impeach Governor Clayton?—A. Yes, sir.

Q. That resolution was introduced into the legislature in pursuance of that determination of the caucus?—A. My recollection now is that that was not introduced by a democrat at all.

Q. Was it introduced by reason of your action in caucus?—A. Partly, I suppose. There were two caucuses. That you may distinctly understand it, there were two caucuses, one called "the liberal republicans" and sometimes "Brindle-tails," and the other the democratic. They would not caucus together, but they had a committee from one to the other to communicate the action of one to the other, and in that way those caucuses co-operated together.

Q. And you agreed to pass a resolution for the impeachment of Clayton?—A. Yes, sir.

Q. Both caucuses?—A. That was my understanding.

Q. In pursuance of that arrangement such a resolution was introduced into the legislature and was passed?—A. Yes, it was canvassed there among the members of the legislature in those caucuses for a week or two before it was finally acted on.

Q. Did you take part in the action of the caucus?—A. I suppose I did.

Q. Did you support Governor Clayton for the United State Senate?—A. I did not.

Q. At either election?—A. I never supported him at all.

Q. What was the subject-matter of the caucuses at that time?—A. The subject-matter was the organization of the democratic party in the house that they might have concert of action; and among other things it was determined by that caucus to attempt to defeat the organization of the house the first day.

Q. For what purpose?—A. For the purpose of postponing the election of United States Senator, in order that we might have better opportunities to defeat Mr. Clayton. That was the object.

Q. Was not the matter of the election of Clayton not only considered in the caucuses, but what his message would be, and the measures connected therewith, in order to secure the democratic vote?—A. I do not recollect. I am satisfied that the question was discussed as to who of the republican candidates, if it became necessary for us to support either, we ought to support. In other words, which was the most liberal of the two wings of the republican party; and we finally came to the conclusion that we would not support either of them. We considered that we had nothing to gain by supporting either, and concluded not to do it.

Q. Did you not meet with a friend, or friends, of Governor Clayton, and with them arrange the time and place where you could meet Governor Clayton?—A. No, sir. I suppose that is driving at a meeting that Governor Clayton and I had after the impeachment. It was the only time I ever met Governor Clayton, and I met him then, so far as I was concerned, accidentally. The meeting may have been prearranged by Governor Clayton's friends, but was not so understood by me. It was at the Anthony House, the Pacific Hotel.

Q. Who were there besides yourself?—A. I went to McConnell's room. That was after the impeachment was dismissed, and I think the

that at which Tankersley and Bowen were present?—A. If I stated yesterday that I had two conversations, and two conversations only, with Governor Clayton, on the subject of that certificate, I desire now to correct, because I think probably I spoke with Governor Clayton two or three, perhaps four, times on that subject.

Q. How long before Gantt sent his letter to the house was it that you had the second conversation with Governor Clayton; and who was present at that conversation?—A. I have no recollection that any one ever was present at any conversation I had with Governor Clayton, except at the time I have alluded to, when Judge Bowen, Mr. Tankersley, and, (though I am not positive as to Judge Bennett,) I think, Judge Bennett was present; I know there were four persons there.

Q. How long before Gantt sent his letter to the house was it that you had your second conversation with Governor Clayton; and who was present at that conversation?—A. It was some time before Gantt sent his letter in which he alluded to this arrangement.

Q. Is that the letter which appears in the journal of the house?—A. All the conversations I had with Governor Clayton on this subject were some time, I cannot say how long, before.

Q. Was it a week?—A. I think so.

Q. Was it more than two weeks?—A. I cannot state that. I can state that quite a lengthy period elapsed.

Q. Was it more than two weeks?—A. It would be impossible for me to state. My recollection of dates is very deficient. Unless something has fixed a date in my mind I never remember it.

WASHINGTON, *February* 13, 1872.

MET. L. JONES sworn and examined.

By Mr. BARNES:

Question. Where do you reside?—Answer. At Pine Bluff, Arkansas.

Q. What county?—A. Jefferson.

Q. How long have you resided in the State of Arkansas?—A. Nearly thirteen years.

Q. What is your business or profession?—A. Attorney at law.

Q. Where did you reside in 1870 and 1871?—A. In Calhoun County, Arkansas.

Q. At what place in Calhoun County?—A. Hampton.

Q. Is your acquaintance with the people of Arkansas limited or extensive?—A. I have rather an extensive acquaintance with the people of that State.

Q. In how many counties have you practiced your profession; what length of time have you been engaged in said practice; and is it limited or extensive?—A. Generally about ten counties—Hot Springs, Hempstead, Ouachita, Columbia, Calhoun, Dallas, Union, Drew, Bradley, and Jefferson.

Q. What congressional district are those counties in?—A. The second.

Q. Who represents it at present in the Congress of the United States?—A. Hon. O. P. Snyder.

Q. Is there any question or contest in reference to his right to a seat in Congress?

Mr. MCCLURE objected to the question.

The committee overruled the objection.

A. Anthony A. C. Rogers has inaugurated a contest, and served notice of contest.

Q. Was your practice in the counties you have named limited or extensive?—A. I have rather an extended practice there.

Q. What length of time have you been engaged in said practice?—A. About twelve years.

Q. Has your practice been extensive during all that period of time; and, if not, what length of time has it been so?—A. Since within a year or so after the war my practice has been very extensive; really more than my attention would admit of carrying through.

Q. Have you ever taken any part in the politics of the State of Arkansas?—A. Yes, sir, some little.

Q. To what extent? Name any political position you have held.—A. I was a member of the legislature one term.

Q. At what time?—A. In the session of 1866–'67.

Q. Have you held any other political position, or taken part in political discussions?—A. I was one of the candidates for presidential elector there in 1868.

Q. On what ticket?—A. Seymour and Blair.

Q. Did you canvass the counties you have named?—A. I believe I canvassed fourteen counties.

Q. Did they embrace the counties in which you have practiced your profession?—A. They did.

Q. Are you acquainted with Senator Powell Clayton; if so, how long have you known him, and in what capacity?—A. I have known him as governor of the State since his inauguration. Personally my acquaintance with him is very limited.

Q. Do you know anything about said Clayton having been a candidate for the position he now holds in the Senate of the United States? If so, how long before his election was it or not generally understood throughout the State of Arkansas, and especially in your part of the State, that he was a candidate for said office before registration commenced in said State in 1870? State all the facts and circumstances within your knowledge on the subject.

Mr. McCLURE. We object to so much as asks him to state his understanding of anything. He may state such facts as he knows.

The CHAIRMAN. (To the WITNESS.) Proceed and state the facts which you know in reference to such candidacy, and when you first knew it.

The WITNESS. From Governor Clayton I knew nothing about his candidacy before the registration. In my section of the country it was generally understood and canvassed that he would be a candidate before the ensuing legislature for the United States Senate.

By Mr. BARNES:

Q. State all the facts and circumstances within your knowledge connected with the matter.—A. I have stated about all I know in relation to his candidacy.

Q. Did or did he not canvass the State of Arkansas, or part of it, in 1870, prior to registration and his election; and, if so, what was the object of his canvass? State the facts.—A. Outside of the campaign, in a mere political way, I do not know that he took any part in the canvass anterior to that time. As far as his announcement of his future application for position in that campaign was concerned, I know nothing of it.

Q. Is that your only answer to the question?—A. As I understand the question, it is.

Q. State all you know of anything in reference to registration in your State in 1870. Was it fair or unfair? If not fair, state minutely all the facts and circumstances connected with the registration of an unfair nature or character; if Senator Clayton had any agency therein or information of any complaints on the part of the people of the State or any of them in reference to unfairness of registration, state the facts within your personal knowledge.—A. In Union County, I was there a good deal during the campaign, and observed the manner in which registration was conducted, and I know of my personal knowledge that there were between seven hundred and a thousand men refused registration who went forward and proposed to take the oath of franchise prescribed by the constitution of the State. As a mere matter of opinion on these facts, and speaking from my standpoint, (which is to be taken *cum grano salis*,) I regarded the registration as very unfair. In response to the latter part of the interrogatory as to whether Governor Clayton had any information from the people in regard to it, I would state this: that a delegation of Union and Columbia met at Camden for the purpose of visiting Governor Clayton, to acquaint him with the manner in which registration was being conducted in those two counties, and they selected Judge John F. Bearden, of Camden, and myself to interview Governor Clayton in relation to the matter. We went to Little Rock and had an interview with Governor Clayton in relation to it. I told Governor Clayton that I had come there to represent the people of Union County and Columbia County, in conjunction with Judge Bearden, in reference to the matter, and told him there had been several hundred persons refused registration, and that a day had been fixed by the registrar, in his rounds through the various townships, for those parties who had been refused to come and have a new hearing, and that on that day a great many of them came, and the registrar announced to a number of them that the registration as to them was closed, and he would not open the books further; that in the afternoon of the same day a concourse of voters came in from the country, who, it was generally understood, would vote his ticket, and that the registrar opened his books and permitted them to register, and immediately upon that being completed closed the books again; and I suggested to Governor Clayton that the people were very much excited and chagrined at the manner in which registration was being conducted, and that we had come with a view of seeing if he would not remedy it. He replied that my statement was a mere *ex-parte* statement, and that probably if the registrar was there he would deny it. I told him I was willing to be sworn to what I had stated, and, in addition to that, I had some fifteen affidavits of substantial citizens of the county verifying the same facts. He said yes, but those statements were merely *ex parte*. I suggested to him, then, that he give the registrar a day to be heard, and we would bring forward testimony enough to substantiate the facts that I had alleged. Governor Clayton said that the time was then too short to go into an investigation of that kind, and declined to do so. I then spoke to him about the removal of the registrar and the appointment of another. Governor Clayton said he did not conceive that he had the authority to remove a registrar. A little controversy arose between Judge Bearden and himself in relation to his authority, in which reference was made to some removals of registrars before. Governor Clayton said yes, he had done it, but now upon reflection he rather regretted it, as transcending

his authority. The registration act was taken up by Governor Clayton and referred to, and he called our attention particularly to the first section of it, which said that the governor, by and with the advice and consent of the senate, should appoint registrars; and the governor said on his construction of that law he did not conceive that he had the authority to remove a registrar, but remarked that he would refer the matter to the courts of the country. I told him, very well; we would accept that disposition of it, and would carry it to the courts of the country. I asked him the question then, directly, if he would interfere with us. He said not till after the election. I suggested that possibly it would bear more the appearance of spleen and vengeance to attempt it after the election, and that our real object was to take this course for the purpose of securing a fair registration in the county. He said that to allow that now would be to interfere with the registration, and that he could not submit to it; he could not allow us to interfere with it before the election. In alluding to the registrar of the county, Mr. George A. Wilkins, Governor Clayton asked me if he did not register there before. I told him he did at the previous election. He asked me if his registration had not been perfectly satisfactory. I simply said, in justification to Governor Clayton, that his previous registration had been perfectly satisfactory, but that the present certainly was not. I do not remember anything further.

Q. Was anything further said between you in reference to his using force in any way if you attempted to proceed?—A. It has been a long time ago, and my memory was not charged with it at the time, further than the nature of the interview would impress it upon me. He said that he would take steps. My impression was by the militia, if necessary. I am not sure on that point, however, what his exact language was; but that was the impression left upon me.

Q. Did he, or not, tell you that if you undertook to resort to the courts before the election, or correct the abuses in registration, he would send the militia upon you and treat you and yours as insurrectionary? State what he said, if anything, on these subjects.—A. My impression is that he said if we attempted to arrest these registrars for violation of the registration act anterior to the election, it would be an interference with the registration of the county, something he, as executive, would not tolerate, and he would, if necessary, have to send force in there and treat our movements as insurrectionary. My recollection of the language is to that effect.

Q. Who were the men engaged in registration in that county at the time? How many counties were you and Bearden there to represent?—A. Columbia, Ouachita, and Union, I think; particularly Columbia and Union.

Q. Did they or not have large voting populations?—A. They did. They are what we call in the West large counties.

Q. What was the politics of the men in those counties appointed to register the voters? Were they Clayton or anti-Clayton men?—A. They were all Clayton men in Union, I know; in Ouachita I do not know really whether their personal preferences were for Governor Clayton. They were republicans.

Q. Do you know any man appointed in any of these counties, or in any county of the State of Arkansas, that was not in favor of Clayton? If so, name the man.

Mr. BOWEN objected to the question.

The committee overruled the objection.

A. I do not of my own knowledge.

Q. Is that your only answer to the question?—A. As I understand the question, it is.

Q. State all you know of anything in reference to registration in your State in 1870. Was it fair or unfair? If not fair, state minutely all the facts and circumstances connected with the registration of an unfair nature or character; if Senator Clayton had any agency therein or information of any complaints on the part of the people of the State or any of them in reference to unfairness of registration, state the facts within your personal knowledge.—A. In Union County, I was there a good deal during the campaign, and observed the manner in which registration was conducted, and I know of my personal knowledge that there were between seven hundred and a thousand men refused registration who went forward and proposed to take the oath of franchise prescribed by the constitution of the State. As a mere matter of opinion on these facts, and speaking from my standpoint, (which is to be taken *cum grano salis*,) I regarded the registration as very unfair. In response to the latter part of the interrogatory as to whether Governor Clayton had any information from the people in regard to it, I would state this: that a delegation of Union and Columbia met at Camden for the purpose of visiting Governor Clayton, to acquaint him with the manner in which registration was being conducted in those two counties, and they selected Judge John F. Bearden, of Camden, and myself to interview Governor Clayton in relation to the matter. We went to Little Rock and had an interview with Governor Clayton in relation to it. I told Governor Clayton that I had come there to represent the people of Union County and Columbia County, in conjunction with Judge Bearden, in reference to the matter, and told him there had been several hundred persons refused registration, and that a day had been fixed by the registrar, in his rounds through the various townships, for those parties who had been refused to come and have a new hearing, and that on that day a great many of them came, and the registrar announced to a number of them that the registration as to them was closed, and he would not open the books further; that in the afternoon of the same day a concourse of voters came in from the country, who, it was generally understood, would vote his ticket, and that the registrar opened his books and permitted them to register, and immediately upon that being completed closed the books again; and I suggested to Governor Clayton that the people were very much excited and chagrined at the manner in which registration was being conducted, and that we had come with a view of seeing if he would not remedy it. He replied that my statement was a mere *ex-parte* statement, and that probably if the registrar was there he would deny it. I told him I was willing to be sworn to what I had stated, and, in addition to that, I had some fifteen affidavits of substantial citizens of the county verifying the same facts. He said yes, but those statements were merely *ex parte*. I suggested to him, then, that he give the registrar a day to be heard, and we would bring forward testimony enough to substantiate the facts that I had alleged. Governor Clayton said that the time was then too short to go into an investigation of that kind, and declined to do so. I then spoke to him about the removal of the registrar and the appointment of another. Governor Clayton said he did not conceive that he had the authority to remove a registrar. A little controversy arose between Judge Bearden and himself in relation to his authority, in which reference was made to some removals of registrars before. Governor Clayton said yes, he had done it, but now upon reflection he rather regretted it, as transcending

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Q. Was anything further said between you in reference to his using force in any way if you attempted to proceed?—A. It has been a long time ago, and my memory was not charged with it at the time, further than the nature of the interview would impress it upon me. He said that he would take steps. My impression was by the militia, if necessary. I am not sure on that point, however, what his exact language was; but that was the impression left upon me.

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Q. Did they or not have large voting populations?—A. They did. They are what we call in the West large counties.

Q. What was the politics of the men in those counties appointed to register the voters? Were they Clayton or anti-Clayton men?—A. They were all Clayton men in Union, I know; in Ouachita I do not know really whether their personal preferences were for Governor Clayton. They were republicans.

Q. Do you know any man appointed in any of these counties, or in any county of the State of Arkansas, that was not in favor of Clayton? If so, name the man.

Mr. BOWEN objected to the question.

The committee overruled the objection.

A. I do not of my own knowledge.

Q. (By Mr. BARNES.) Do you know of any of the registrars appointed by Governor Clayton in 1870, and who acted under him, who were afterward appointed to office by him or through his influence?

Mr. BOWEN objected to the question.

The committee sustained the objection.

Q. (By Mr. BARNES.) To meet the view of the committee I will change the question. I ask the witness whether any of these registrars after that acted as officers; and, if so, in what capacity?—A. I have not any very definite recollection, generally, in regard to that. A. L. Cotton was president of the board of registration of Hot Springs County, and he was at the time, and I think is now, clerk of Montgomery County. George A. Wilkins, who registered Union County, is now a justice of the peace, or acting as justice of the peace. I have never seen his commission. In Calhoun County, W. H. Atkins, one of the registrars of Union County, is a justice of the peace there.

Q. Any others that you remember?—A. I do not remember any others now.

Q. What time, after registration ceased, did they commence to exercise the offices you have named?—A. I do not know. I do not remember.

Q. Was it afterward?—A. As I stated, Cotton, at the time he was appointed president of the board of registration, was clerk of Montgomery County. Wilkins has removed to Calhoun County since that time, say within the last six months, and has been acting as justice of the peace there.

Q. Do you undertake to say that Cotton, who registerd Hot Springs County, at the time he acted as registrar, was not a citizen of the county that he registered?—A. He was not.

Q. What county did he then live in?—A. At Mount Ida, Montgomery County, and was clerk of the county.

Q. Where did the other officers of registration, who assisted him in the registration of Hot Springs County, live at the time of the registration, and who were they?—A. One, a Mr. Littleton, lived in Hot Springs County. I do not remember who the other was.

Q. What is the name of the other gentleman you referred to?—A. Wilkins.

Q. Where did he live at the time he registered Union County?—A. He resided in Union County at that time.

Q. Is he now exercising any other office?—A. I spoke about his being justice of the peace in Calhoun County. He has removed to Calhoun and been appointed justice of the peace there. He claimed to me to be assessor of the county.

Q. Has he been acting in that capacity?—A. There have been no assessments made since his arrival there.

Q. If he is assessor, then, would he not, under the laws of Arkansas, have the next registration?

Mr. BOWEN. I object.

(The committee sustained the objection.)

By Mr. BARNES:

Q. State where you and Judge Bearden had the interviews with Governor Clayton in reference to the registration of the counties you have named?—A. At the Capitol, in the executive office.

Q. About what time?—A. My recollection is indistinct about that, but I will say about ten or fifteen days prior to the election. I remember well that one of the objections he offered was that he did not have *time.*

WASHINGTON, *February* 14, 1872.

CASWELL B. NEAL sworn and examined.

By the CHAIRMAN

Question. Where do you reside?—Answer. I reside in Sebastian County, Arkansas.

Q. How far is that from Little Rock?—A. By land, I suppose it is about 160 miles; by water, probably 300 miles.

Q. How long have you resided there?—A. Since January, 1860.

Q. Were you in Little Rock in the winter of 1870-'71?—A. Yes, sir.

Q. Were you a member of the general assembly?—A. I was.

Q. From Sebastian County?—A. I represented three counties, under the peculiar manner of electing.

By Mr. MORRILL:

Q. Are you a native of that State?—A. No, sir; I am a native of Tennessee.

Q. How long have you been a resident of Arkansas?—A. I moved there in January, 1860.

By the CHAIRMAN:

Q. Were you a member of the senate or house?—A. Of the house.

Q. Do you know anything of any trade, arrangement, or bargain of any kind or description between Governor Clayton and Mr. Edwards, or the friends of either, by which, in consideration of the granting of a certificate of election to General Edwards, Governor Clayton was to receive the votes of democrats or others for the Senate of the United States?—A. I know nothing of any trade of the kind; it never came to my knowledge.

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Q. Were you a member of the impeachment committee?—A. There were two impeachment committees; I was chairman of the last impeachment committee.

Q. For the impeachment of Governor Clayton?—A. Yes, sir.

By Mr. MCCLURE:

Q. Be kind enough to state whether or not you were elected to the legislature as a republican?—A. No, sir; I was elected as a conservative.

Q. Did you attend the democratic or conservative caucuses that were held in the city of Little Rock during the sessions of the legislature?—A. I suppose I was at most of them.

Q. At any of those caucuses did you hear the subject of such a trade at any time canvassed?—A. I do not think anything of that kind was ever before the democratic caucuses of members of that legislature.

Q. State whether or not you at any time ever heard any member of the legislature indicate that there was any such trade as has been referred to in the questions that have been asked you?—A. No, sir; I never heard of any trade of that kind at all; I never heard of any trade of that kind until I saw it announced in the papers that these charges were made against Clayton.

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claims to seats in the house ?—A. I do not recollect ever hearing tl subject mentioned either.

Q. I understood you to say that you had been appointed chairman the board of managers to prosecute articles of impeachment agai Governor Clayton. State how that appointment came about.—A was appointed by the speaker of the house.

Q. Had you or not any knowledge that you were to receive that pointment before it was made ?—A. No; I knew nothing about it; at tl time I had very little confidential communication with the speaker his friends.

Q. State whether in the course of your examination as a member the committee by the house, to prosecute the impeachment, you l occasion to examine the records on file in the office of the secretary state and other offices in relation to the award of State aid to railroa and the issuing of bonds thereto ?

The WITNESS. I did examine the records.

By Mr. MCCLURE:

Q. State whether or not the report made by the impeachment cc mittee to the house was based upon that examination, so far as it rela to the railroads of the State ?

Mr. BARNES. I object. The record shows for itself.

Mr. MCCLURE. Then I will hand the witness the report of the ma gers, as contained in the house journal, and ask him to identify it.

Mr. BARNES. I understand that that journal is before the committ

Mr. MORRILL. (To Mr. Barnes.) You make no question that that is t report ?

Mr. BARNES. Certainly not. We admit that that book is the journ and may be used in evidence by either side.

Mr. MCCLURE. Having secured that admission, I will not proce further with that line of inquiry. (To the witness.) State whether or at any of the democratic caucuses to which you have referred a class members of the legislature known as "Brindle-tails" were present.

The WITNESS. I do not think there were any Brindle-tails who e participated in the caucus; sometimes they visited it.

Q. Did you present articles of impeachment as chairman ?—A. sir; the specific articles of impeachment were never drawn up.

Q. You were chairman of a committee who reported something ?-- I was chairman of a committee appointed for the purpose of prepari those articles for presentation to the senate; but, as that report w show, I never could find sufficient proof against Powell Clayton on wh to base them.

Q. Did you present them; were articles ever presented to the house A. No, sir.

Q. The resolution to impeach was passed before you were appointed A. The resolution of the house was passed before I was appointed.

Q. Then you were appointed to present the matter to the senate A. Yes, sir; to prepare specific articles of impeachment.

Q. Did the resolution for the impeachment of Governor Clayton or inate in a caucus to your knowledge ?—A. I do not know that I am c tain where it originated. The writing of it did not originate in a cauc The matter was written out and afterward submitted to the caucus.

Q. Was the introduction of the resolution a subject of considerati in a caucus ?—A. It was spoken of in the caucus frequently.

Q. In what caucus ?—A. The democratic caucus.

Q. Was it resolved upon there?—A. Well, I am inclined to think that it was.

Q. Were you present?—A. Yes, sir; I was present.

Q. Do you not know whether it was or not?—A. My recollection is that it was.

Q. Resolved to impeach Governor Clayton?—A. Yes, sir.

Q. That resolution was introduced into the legislature in pursuance of that determination of the caucus?—A. My recollection now is that that was not introduced by a democrat at all.

Q. Was it introduced by reason of your action in caucus?—A. Partly, I suppose. There were two caucuses. That you may distinctly understand it, there were two caucuses, one called "the liberal republicans" and sometimes "Brindle-tails," and the other the democratic. They would not caucus together, but they had a committee from one to the other to communicate the action of one to the other, and in that way those caucuses co-operated together.

Q. And you agreed to pass a resolution for the impeachment of Clayton?—A. Yes, sir.

Q. Both caucuses?—A. That was my understanding.

Q. In pursuance of that arrangement such a resolution was introduced into the legislature and was passed?—A. Yes, it was canvassed there among the members of the legislature in those caucuses for a week or two before it was finally acted on.

Q. Did you take part in the action of the caucus?—A. I suppose I did.

Q. Did you support Governor Clayton for the United State Senate?—A. I did not.

Q. At either election?—A. I never supported him at all.

Q. What was the subject-matter of the caucuses at that time?—A. The subject-matter was the organization of the democratic party in the house that they might have concert of action; and among other things it was determined by that caucus to attempt to defeat the organization of the house the first day.

Q. For what purpose?—A. For the purpose of postponing the election of United States Senator, in order that we might have better opportunities to defeat Mr. Clayton. That was the object.

Q. Was not the matter of the election of Clayton not only considered in the caucuses, but what his message would be, and the measures connected therewith, in order to secure the democratic vote?—A. I do not recollect. I am satisfied that the question was discussed as to who of the republican candidates, if it became necessary for us to support either, we ought to support. In other words, which was the most liberal of the two wings of the republican party; and we finally came to the conclusion that we would not support either of them. We considered that we had nothing to gain by supporting either, and concluded not to do it.

Q. Did you not meet with a friend, or friends, of Governor Clayton, and with them arrange the time and place where you could meet Governor Clayton?—A. No, sir. I suppose that is driving at a meeting that Governor Clayton and I had after the impeachment. It was the only time I ever met Governor Clayton, and I met him then, so far as I was concerned, accidentally. The meeting may have been prearranged by Governor Clayton's friends, but was not so understood by me. It was at the Anthony House, the Pacific Hotel.

Q. Who were there besides yourself?—A. I went to McConnell's room. That was after the impeachment was dismissed, and I think the

only time I ever had a conference with Clayton at all, and that on my part was accidental. I went to his room, and Governor Clayton stepped in, I think, in a few minutes after I did; and Mr. McConnell, my recollection now is, walked out and left Mr. Clayton and me together. If the committee desire to know what he said there, I have no objection to stating the entire amount of that conversation, as far as I recollect it.

Q. Did you not meet Governor Clayton on the night before the second senatorial election and have a consultation with him in the presence of other friends of Governor Clayton?—A. I did not. That has reference to the meeting at the Anthony House. It was either the night before or the second night before, I am not certain which, that Governor Clayton and I met in McConnell's room, referred to in a previous question. It was after impeachment, but the night or the second night before the second senatorial election.

Q. Are you not connected with the railroad system in Arkansas?—A. I do not know that I am connected with the railroad system. I am president of a corporation organized for the purpose of building a railroad, but there is no road there yet, and that is all the connection I have with the railroad system of Arkansas.

Q. Name the railroad.—A. It is the Kansas City and Fort Smith Railroad.

Q. You are president of that?—A. Yes, sir.

Q. Define where it runs.—A. It runs from Fort Smith, through the counties of Sebastian, Crawford, Washington, and Benton, to the Missouri line. That is as far as the charter extends, in the direction of Pineville from Benton.

Q. What is the length of the road?—A. About 100 miles to the State line.

Q. Why were you interested in that road or appointed its president?—A. What little interest I acquired was by going in with some other gentlemen and forming a corporation, and the directors elected me as president.

Q. With whom did you go in?—A. There was Mr. Sarber.

Q. Of the legislature?—A. He was a member of the senate. There was John Cornell.

Q. Where does he live?—A. He is a very violent democrat; he lives in Fort Smith.

Q. Who else?—A. Hussey.

Q. Where does Hussey live?—A. In New York, I think.

Q. Is he not a particular friend and supporter of Clayton?—A. He reported himself to be a Tammany democrat. I do not know whether he supported Clayton or not.

Q. Do you not know that he was one of Clayton's lobbyists at the legislature to which Clayton was elected to the Senate?—A. I cannot say that he was.

Q. Have you not every reason to know that he was; and did you not often meet with him and consult with him upon that subject during the session of the legislature?—A. I met him very frequently, and we talked about matters and things generally.

Q. Did you not specially talk about Clayton's case?—A. We especially talked about almost everything that came up in that body, and among other things I suppose of course we talked about Clayton. My impression is, that toward the last he was inclined to favor Clayton's election.

Q. Do you recollect talking with Colonel McConnell about it?—A. I think I did. I think I told him what the report would be.

Q. But you did not tell him as a secret confidential matter?—A. No, sir. I told various members of the old impeachment committee that unless they furnished me, and pretty soon, with some evidence against Clayton, I should ask the house to dismiss those charges. About the last remark Mr. Smith, who was one of the prominent members of the impeachment committee, made was, "Well, perhaps you might as well do it and let Powell Clayton go, and get rid of him."

Q. Did you demand of the parties who professed to have this evidence that they should have it forthcoming?—A. I did. I demanded it of all I knew as having been prominent in the prosecution.

Q. State the nature of your efforts to procure evidence.—A. The only effort I can state is that I called on all those men about Little Rock, that I knew of being prominent in getting up those charges against Powell Clayton. Among others I called on Mr. Hodges, in company with the entire committee.

Q. I understood you to say yesterday that Mr. Hodges was one of the gentlemen who proposed to furnish this evidence when the articles were drawn?—A. Yes, sir.

Q. What reason did Mr. Hodges give for not furnishing evidence when the committee waited on him for it?—A. I do not know that I can correctly answer that question. The three committee-men started out from our rooms to hunt Mr. Hodges, especially, and we found him in the representative hall.. We sat down. I informed him I was hunting for him, and asked him to sit down, as I wanted to talk to him about the impeachment matter, and that I wanted the evidence upon which to base the specific articles of impeachment. My recollection is that in substance he stated, "Well, I reckon you will find plenty of it." "Well, said I, "that is just what I want," and I drew out my pencil and took a piece of paper to make a memorandum. I commenced reading the charges as they were given in the original copy, one by one, and called on him for the witnesses to prove each separate charge. He knew of none. The substance of the whole thing was that he knew of no witnesses he could prove it by, probably with one exception, in regard to the issuing of the railroad bonds to the Ouachita and Mississippi, I believe, or some other railroad in the southern part of the State. He said the record was all the evidence they had on that.

Q. Did you examine the record?—A. After I left Mr. Hodges' office, the entire committee went to the secretary's office and examined the record in regard to those bonds.

Q. State what papers you found there.—A. I do not now recollect. I found the record of the bonds that had been issued, and upon investigation and consultation with the remainder of the committee, we concluded that if the whole matter of the impeachment of Powell Clayton depended upon that charge, we could not sustain it.

Q. That was your conclusion from what you saw there on the records?—A. Yes, sir.

Q. Did you, or not, find the affidavits required by law to be filed there?

Mr. BARNES. I object to the question.

Mr. BOWEN. (To the witness.) Well, state what papers you saw there.

The WITNESS. I do not recollect what papers we did see. I recollect we examined the matter as thoroughly as we could, and thought we had all the facts before us, and became satisfied the charge against Powell Clayton, so far as that specification was concerned, we could not sustain.

Q. The first meeting with Mr. Hodges, you say, was in Rice & Ben-

jamin's office at the time the articles were drawn?—A. It was up-stairs, either in the office or over the office; it was in the same building.

Q. Who are Rice & Benjamin? Who was Benjamin's partner?—A. I understood that Rice was.

Q. Which Rice?—A. B. F., I believe; I do not know the man.

Q. Do you know M. L. Rice?—A. I do not. I do not know what Rice it was; I am not acquainted with either of the Rices.

Q. What Gantt was that you referred to as having been present at the time of these charges?—A. We usually called him "Bob," "Prairie Gantt"—R. S. Gantt.

Q. Was he or not the man who claimed to be elected from the Pulaski district?—A. The same one.

Q. Who is Bob Newton?—A. He is a lawyer of Little Rock.

Q. What is his political position?—A. He is a democrat.

Q. Was he there before the war, or during the war, or is he a new man? Tell all about him.

Mr. HODGES. I admit he was one of my attorneys.

Mr. BOWEN. Very well; that will do. [To the witness.] Did you or not meet at that room, above the office of Rice & Benjamin, by appointment, and if so, by whose arrangement and consultation?—A. I was invited there, and was piloted there, because I did not know where the office was, but by whom I do not recollect.

Q. Do you recollect who invited you there?—A. I do not.

Q. Did you understand that you went there for the purpose of drawing up these documents that you testified were drawn up there?—A. My understanding was that we went there to examine them.

Q. Referring to your conversation with Governor Clayton at the Anthony House, drawn out by Colonel Barnes, I ask you to give to the committee the rest of that conversation.

Mr. Barnes objected to the question.

The committee sustained the objection.

Q. (By Mr. BOWEN.) At the interview alluded to at the Anthony House, between yourself and Governor Clayton, was there any bargain made between yourself and Governor Clayton, either in regard to the impeachment matter in any way or in regard to his election to the Senate of the United States, or which would have any bearing, directly or indirectly, on either?—A. There was no bargain either spoken of or referred to; but the impeachment and the election to the United States Senate were referred to in the conversation.

Q. Was there any bargain between you and Governor Clayton, upon any subject, on that occasion?—A. There was not.

By Mr. NORWOOD:

Q. Who were they?—A. They were Mr. Carloff and Mr. Owen, both of Benton County, one a senator and the other a representative. Mr. Carloff was elected chairman of our caucus at that meeting. It was called a democratic caucus, and he took up his hat and went out. That was the last time he met with us. It was expected that there would be enough of the disaffected republicans, probably, voting against Clayton's man for speaker to defeat an organization on the first day by the democrats voting solid for one of their own men, and it was understood at that time that Mr. Smith, a representative from Columbia County, would be the candidate in opposition to what we denominated at that time Mr. Clayton's candidate.

Q. Who was Mr. Clayton's candidate?—A. I am not certain whether we knew at the time; I think that Tankersley was.

By Mr. BOWEN:

Q. Do you mean that he was Clayton's individual candidate, or the candidate of the party?—A. The candidate of his friends.

Q. Who was eventually nominated by the democratic caucus for speaker of the house, and who was supported in the legislature?—A. I believe I got the votes of the democratic members.

Q. Is it not true that you did not, after your appointment as one of the managers, pretend to employ any time beyond the portion of the two days you have named?—A. I employed a portion of each day from the time I was appointed until I made that report.

Q. Is it not true that you did not really consult, or intend to consult, anybody else but Clayton and his friends in reference to that matter, except so far as to cover up your actions?—A. In the discharge of that duty, as manager, I never consulted Mr. Clayton or any of his friends as to what course I should pursue; I consulted only those parties who were active in bringing up the charges and stating that sufficient proof was at hand.

Q. Is it not true that you were engaged but the two days, in all, after your appointment?—A. I have answered that question fully, as I conceive; I answered that I was engaged a portion of each day from the time I was appointed until I made the report.

Q. On what day were you appointed?—A. I do not recollect.

Q. Were you not appointed on the 1st day of March?—A. I have stated that I do not recollect the day I was appointed or the day I made that report; I presume the records are correct in whatever they state.

Q. Do you refer to the journal as containing the fact?—A. I suppose the record is correct; I have not examined it; I have no recollection as to the day I was appointed or the day I made that report.

Q. Is it or not true that before you made your report you had a meeting and consultation with Governor Clayton in the presence of Mr. Oliver, the assistant State geologist of Arkansas, in which you talked over with Clayton the matters connected with the impeachment, and agreed what your report on your course should be?—A. No, sir; no such meeting was ever had. I do not recollect ever speaking to Governor Clayton—I do not think I did—from the time I was appointed; and I talked to Governor Clayton very little during the whole session. I had very little to do with him.

Q. Do you know such a man as Oliver, assistant State geologist?—A. I do.

Q. Did you not state in his presence in the city of Little Rock, during the sitting of the legislature elected in 1870, what your report would be upon these charges?—A. I do not recollect of talking to Mr. Oliver at all on the subject; but, as I stated before, prior to making that report I said in the hotel to divers persons that unless those parties who were prosecuting Governor Clayton could furnish me some evidence, I would soon ask that the charges be dismissed.

Q. And did you not cut off the charges and cease to perform any duty in reference to them, as a manager, at the end of three days?—A. I did not cut off any charges at all.

Q. Did you not make your report and ask to be discharged?—A. I did; if that is what you mean by cutting off. My report was made out the night before it came in. The record I suppose will show when that was. The day before, in the house, (whether it is matter of record I do not know, but) some of the representatives called on the committee to report their progress in the impeachment of Powell Clayton; probably

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Governor Clayton's brother participated. I happened to be in the house, and I informed the house that I would make some report of progress the next morning. There were inquiries of that kind frequently made; I suppose they did not go on the record. The report was called for, and I got up and remarked that I would report next day. I do not think such things as that usually went on the record. I recollect that occurring in open session. Next morning I had the report ready and presented it.

Q. Was that during the time a portion of the senators were out in the brush with Governor Hadley?—A. No, sir, I think not. I think they had come in. I know they had. The reason I know they had is this: my recollection is that I appeared at the bar of the senate a few minutes after I was appointed and made declaration of the charges.

Q. Is it not now, upon reflection, the fact that you did not appear until next day?—A. My recollection is that I appeared the same day. It is possible I did not appear until the next day, but my recollection is that it was a few minutes after I was appointed. We got together in the house immediately, myself and the other members, and agreed to walk in and make the proclamation. I think it was the same day; I think a few minutes afterward.

Q. Was there then a quorum of the senate?—A. I did not inquire. There seemed to be several.

Q. Do you not know the fact that Clayton's friends had taken to the brush and run off?—A. No; there had not at that time, because I recollect that Sam. Mallory was in the chair.

By Mr. NORWOOD:

Q. Was Sam. Mallory one of the men that went into the brush?—A. He was one of the men said to have gone into the brush.

By Mr. BARNES:

Q. Did you not agree, in the presence and hearing of Mr. Oliver, the assistant State geologist, the person referred to in a previous question propounded to you, that you would report in favor of Clayton?—A. I did not agree anything about it. I may have made a declaration that unless some evidence was furnished me I would make such a report.

By Mr. BOWEN:

Q. In regard to this hunting up evidence, with relation to which you have been examined, was that for the purpose of going into trial, or for the purpose of enabling you to prepare the specific articles against Governor Clayton?—A. I was searching at that time for evidence of facts upon which to base specific articles of impeachment.

Q. At the time you were hunting up evidence against Governor Clayton, did you or did you not ascertain whether or not any judicial declaration had ever been had forfeiting the charter of the Mississippi, Ouachita and Red River Railroad Company?—A. I understood there had been none.

Q. Did you look into that question?—A. I looked into it sufficiently to satisfy me there had been none.

Q. Did you regard that as important in connection with the question of issuing bonds?—A. Yes, sir.

Q. And you based your action upon that, with other things?—A. Yes, sir; that was a question we decided in our deliberations, and after we decided that in our own minds, we came to the conclusion it was not necessary to investigate that subject any further.

Q. For what reason?—A. Because there had been no forfeiture of the charter declared by a court of competent jurisdiction.

Q. You determined, in other words, that a forfeiture could not be inquired into collaterally until it had been declared?—A. Yes, sir.

By Mr. NORWOOD:

Q. Do you mean to say that, before you were appointed manager, the week or two before, you were investigating particular grounds of charge against Governor Clayton?—A. Not generally, but those specific charges as to the Hot Springs frauds, one of which was charged against Clayton in the resolution of impeachment.

Q. That is what you were examining before your appointment?—A. I had devoted my time to examining that specific charge more than any other charge.

By Mr. BOWEN:

Q. Was there any object contemplated in the proposed impeachment of Governor Powell Clayton other than the accomplishment of the ends of justice; and, if so, what other object was there?—A. I cannot say that there was.

Q. Did or did not the impeachment of Governor Clayton have some reference to his suspension from office at an early day in order that the accession of some other man to the executive chair should have some effect or some bearing upon some other proceeding?

Mr. BARNES. I object to the question.

The committee overruled the objection.

By Mr. BOWEN:

Q. Did or did not the impeachment of Governor Clayton have some reference to his suspension from office at an early day in order that the accession of some other man to the executive chair should have some effect or some bearing upon the effect of the *quo-warranto* case against Lieutenant-Governor Johnson?—A. I will state that something connected with that *quo-warranto* case, which was then pending in the supreme court, influenced several of the members to vote for the articles of impeachment against Governor Clayton without the matter going through the regular form or submitting it to a committee for the purpose of taking evidence.

Mr. BARNES. I object to any such statement, because it is not explicit, and I move to strike it out.

The committee overruled the motion.

Q. (By Mr. BOWEN.) What was stated by members of the democratic caucus or others as being their reasons for voting upon the impeachment of Clayton before having heard any testimony or without submitting it to a committee?

Mr. BARNES. I hope the committee will admonish the witness to state nothing that he does not know of his own knowledge.

Mr. BOWEN. Certainly.

The WITNESS. The reasons given by several of the members of the democratic caucus, and other members of the legislature, were these: that it would create too much delay in deposing Governor Clayton and give him an opportunity of making an entire change, or a sufficient change, in the supreme court to suit his own caprice or to do his own bidding. There were probably some other reasons given that I do not recollect, or at least I should have to say too much to get them out.

Q. (By Mr. BOWEN.) Was or was not anything said in regard to the

suspension of Clayton or the effect of that suspension?—A. It was decided by a majority of our caucus, and so reported to our caucus by a committee from the Brindle-tail caucus, that their caucus had decided that the passage of the resolution would suspend Governor Clayton from the time it passed the house. My individual opinion was different.

Q. Is that all of your answer?—A. I believe so.

Q. Was or was not the object of Clayton's immediate suspension intended to put Lieutenant Governor Johnson in the executive chair, so that he could appoint a special chief justice in the place of Chief Justice McClure, who was also impeached, or about to be impeached, about that time?

Mr. BARNES. I object to the question.

The committee overruled the objection.

The WITNESS. That matter was spoken of in the caucus and urged by some of the members.

Q. (By Mr. BOWEN.) Did or did not any report come to you of like action or like views from the other caucus by a committee of that caucus?—A. I must answer that question in the affirmative if I answer at all.

By Mr. NORWOOD:

Q. Do you answer that such action was taken by the other caucus?—A. It was so reported by members of the other caucus.

By Mr. BOWEN:

Q. Now, if you know anything else on this subject, state it?—A. I do not now recollect. There may have been some other things, but I do not recollect particularly what they were.

Q. Was the impeachment of any one else discussed in that caucus and if so, state fully?—A. The impeachment of a great many persons was spoken of in the caucus. I do not recollect who. Judge McClure's impeachment was spoken of, and there were others spoken of: but I do not recollect whether they were in immediate connection with the impeachment of the governor.

Q. Was the impeachment of any one agreed to in caucus?—A. The impeachment of all persons who were impeached was decided on in caucus.

Q. In the caucus where the impeachment of Clayton was discussed and agreed upon, was the impeachment of any one else agreed to; if so, state who it was?—A. I have stated that, I think. I stated in the same connection that Judge McClure's impeachment was spoken of and agreed upon, and all were agreed upon in caucus that were impeached at all by our side of the house.

Q. Do I understand you to say that the impeachment of McClure was decided on at the same caucus where Clayton's was?—A. It was discussed at the same time. Whether the decision was arrived at on the same night I do not recollect.

Q. Were they or were they not discussed as being in the same connection?—A. I have stated that two or three times.

By Mr. BARNES:

Q. Who made the report from the Brindle-tail caucus to the democratic caucus to which you have referred?—A. D. J. Smith and Mr. Owen. We were receiving reports every night, nearly, probably every night, about that time, sometimes from one committee and sometimes another.

By Mr. NORWOOD:

Q. But you are asked in reference to this particular report?—A. I understand that. There was a report in this particular case nearly every night. It was under discussion a good deal for some time, and decided on as was reported to us on various nights before our committee. Several reports were made, by whom I do not recollect.

By Mr. BARNES:

Q. Whom did you say besides the men you have named reported from time to time on other occasions; give their names?—A. I answered that question in the other one.

Q. Who else?—A. That question I submit has been answered; I stated D. J. Smith, and Owen, and other persons, but I do not now recollect who the other were.

Q. What did Smith and Owen say?—A. They just made a report of the proceedings of their caucus, and among other things they reported that they had unanimously agreed to impeach Clayton and McClure.

Q. Was that all they said?—A. No; I cannot recollect all the conversation. That was the gist of that report.

Q. Who were the democrats in the democratic caucus that stated their reasons for hurrying the impeachment of Governor Clayton, without going through the regular form, to be that they wanted to keep Clayton from framing the supreme court to suit his purpose, to get Governor Johnson there, in order that he might appoint another chief justice?—A. I will answer that question by stating that it was a majority of them. My recollection is, that it was a majority of the members of the democratic caucus, and that I declined voting for the resolution of impeachment against Governor Clayton until the proof was submitted to me; but upon the question of the supreme court I made an agreement or a promise to that caucus that if Powell Clayton made any other changes in the supreme bench I would then get out of the way and let the impeachment come, which I did when there was another change made in the supreme court.

By Mr. NORWOOD:

Q. There was a change made before the impeachment was passed?—A. Yes, sir; and, as far as I was concerned, I checked the matter in the democratic caucus until that change took place. I had agreed in democratic caucus that when that change took place I would then get out of the way and let impeachment come, and the change came, and my recollection now is that the resolution came the same day.

By Mr. BARNES:

Q. You have not given the names of members. You said a majority so thought; but you do not give the name of a single man; hence it is really not an answer to the question.—A. I do not recollect all the names. I could probably point out most of them if I had the list before me, and could probably, by studying some time. I can call the names of most of the democratic members who belonged to that body, and say a majority of them took this ground, but what particular ones insisted upon the proposition I do not now recollect. There were Mr. Basden, Mr. Battle, Mr. Cate, Mr. Crump, Mr. Glass, Mr. Harvey, Mr. House, Mr. Howard, Mr. McClendon, Mr. Pettigrew, Mr. Scales, (I do not recollect whether he met with us much or not,) Mr. Tygart, Mr. Watson, Mr. Thomas Wilson, Mr. Dudley E. Wilson, and Mr. Duffy; Mr. Frierson and Mr. Riley, from the senate.

By Mr. BOWEN:

Q. Did or did not Governor Clayton remove any of the supreme judges; if not, how did he change the court?

Mr. BARNES. I object.

The committee overruled the objection.

The WITNESS. I can only speak from understanding.

Mr. BARNES. I object.

Mr. NORWOOD. (To the witness.) If you do not know you cannot answer.

Q. (By Mr. BOWEN.) What change do you allude to?—A. I allude to the change when Judge Wilshire, as I understood, resigned; that is, he left the supreme bench; Judge McClure was put in his place, and Mr. Searle was appointed.

Q. (By Mr. NORWOOD.) Were there two changes?—A. Judge McClure was one of the judges; Wilshire was chief justice; McClure was promoted to chief justice, and then another man was appointed associate justice in his place.

Q. (By Mr. BOWEN.) What was the other change that was made in the supreme bench before that; who went off, in the first place?—A. Judge Bowen went off.

Q. Who went on in his place?—A. Bennett, I think.

Q. Were not the men who resigned as supreme judges, both Wilshire and Bowen, political and personal friends of Governor Clayton?—A. My understanding is that they were.

WASHINGTON, *February* 17, 1872.

CASWELL B. NEAL'S examination continued.

By Mr. NORWOOD:

Question. You were elected to the legislature as a democrat, I understood you?—Answer. As a conservative. It amounts to about the same thing in that country.

Q. When a member moves a resolution in the Arkansas legislature does the parliamentary rule prevail there of appointing him chairman of the committee raised by the resolution?—A. As a general thing it does.

Q. Did you move to raise this committee to impeach Governor Clayton?—A. I did not.

Q. Who moved it?—A. I think that Padgett, of Independence, was the principal mover, and my recollection is that he was the chairman of the first committee of seven, of which I was not a member at all. The first committee were relieved upon their own motion and request of the house, and I was appointed after they had been relieved.

Q. Was there a motion made to raise a second committee?—A. I do not recollect. If there was I did not make it.

Q. How did you come to be appointed chairman of the committee then?—A. I do not know anything about it, more than I believe that myself and Mr. Minor, and probably some other lawyers in the house were not on the first committee, aside from the immediate friends of Governor Clayton; and I suppose it was on that account. I know of no other reason.

Q. Was that committee appointed by the speaker, or by a vote of the house?—A. Appointed by the speaker, according to my recollection.

Q. Mr. Tankersley was the speaker?—A. Yes, sir.

Q. Was he or was he not a warm supporter of Governor Clayton?—A. He was understood to be.

Q. Did you vote for Governor Clayton at his first election to the Senate?—A. I never voted for him at all.

Q. Was the impeachment of Governor Clayton abandoned before his second election to the Senate?—A. Yes, sir. His communication refusing to accept the position of United States Senator under his first election was read to the house immediately after the action of the house dismissing the articles of impeachment.

Q. Was there a canvass made of the votes of the legislature previous to the second election to determine whether there were sufficient to elect Governor Clayton?—A. Do you mean a caucus canvass?

Q. A canvass by caucus or otherwise?—A. I suppose there was. There was a good deal of canvassing and a good deal of electioneering.

Q. Was or was there not an understanding between you and Governor Clayton or his friends, that if your vote were necessary you would vote for him for the Senate?—A. No, sir. I never had but one conversation with Governor Clayton, and very few with his friends in regard to that matter, and that was the conversation I referred to in my examination when I met him in McConnell's room, and in that conversation I told him I would not support him under any circumstances.

Q. It was your intention, then, under no circumstances to vote for him for Senator?—A. Not under any circumstances, and I told him so in that conversation. That was either the night or the second night before the last election. I think I remarked to him in the same conversation that I was satisfied he had enough, independent of any harm I could do him, to elect him.

Q. When was the charter of the railroad of which you are president granted?—A. I do not recollect when it was filed in the secretary's office. We have a general railroad system in Arkansas by which the organization of the company and the filing of the necessary papers required by law is all that is necessary. There is no special charter.

Q. That works a charter?—A. Yes, sir.

Q. It does not require, then, an act of the legislature for its charter?—A. No, sir; there is a general railroad-corporation law.

Q. When did you file your application for a charter?—A. I do not recollect. The law was complied with some time before the impeachment; but when, I do not recollect.

Q. Were you one of the corporators originally?—A. Yes, sir.

Q. At what time was the State aid granted to you?—A. I do not recollect that.

Q. Before or after the impeachment?—A. As I stated in my previous examination, I was informed by Governor Clayton and several members of the company that there had been a meeting, and that the award had actually been made before the impeachment; but the record had not been made up and was not made up until after the articles were dismissed.

Q. Is it usual in making an award there to do it verbally, and not make any record of it?—A. No, sir; it is of no account until the record is made up, as a matter of course.

Q. At what time were you informed that an award had been made to your road?—A. I was informed that the meeting of the commissioners had determined to award one hundred miles to that road before the articles of impeachment were voted on or acted on. I do not recollect the date.

Q. Do you say that you were informed before the articles were voted

on, or that you were informed that the award was made before the articles were voted on?—A. I was informed before that award had been made.

Q. Before the articles of impeachment were voted on?—A. Yes, sir my information came before the vote on the articles of impeachment Both the award and the information were before, so far as the original action of the board was concerned.

Q. What amount of bonds was awarded to your road?—A. Fifteen thousand dollars a mile for one hundred miles.

Q. How many miles of your road were completed when the award was made?—A. None, and there are not any completed yet. I stated that in my examination-in-chief. The award of aid to a road in Arkansas does not amount to anything until ten miles of the road are graded and made ready for the iron, before you draw any bonds at all. Nothing has ever been drawn at all.

Q. When did you draw the bonds?—A. I did not draw them at all; none have been issued. They cannot be issued until a portion of the road is built. No bonds can be issued until ten miles of the road are graded and ready for the iron; and the award spoken of is merely the right to demand it when we comply with the law, and put the road under construction.

Q. What was it you said about some monetary arrangement with a house in New York?—A. I was asked if I had made any disposition of any part of my interest in the road. I stated in answer to that, that I had made a conditional trade of a part of my individual stock in that road to a gentleman in New York, which had not been completed, and probably never would be. No person in Arkansas, outside of myself, had anything at all to do with it, or had any knowledge of it.

Q. Then I understand you have received no bonds at all?—A. No, sir; not a cent. I have spent considerable money on the charter, trying to get it up, but never have received anything and do not expect to, of course, until we build some.

Q. Do the committee understand you to mean that your course during the sitting of the legislature, in abandoning the impeachment of Governor Clayton, was influenced by no other consideration than your conviction that Governor Clayton was innocent of the charges?—A. My action was governed entirely by the want of evidence to sustain the charges, and that alone; from my conviction of my inability to obtain any evidence that I could make out a case before the senate that I could even convict Governor Clayton on before the people. I frequently made that statement, that I desired only such facts, and to be able to make out such a case that I could convict Governor Clayton before the public, whether I could do so successfully before the senate or not.

Q. Did you ever attend any republican caucus?—A. I think I never did. I walked into Mr. Duff's room one night about the time they were assembling, but I got out of there pretty soon. That was where the "Brindle-tail" caucuses assembled.

Q. Who were the persons with whom you conferred when you were investigating the charges against Governor Clayton, after your appointment as manager?—A. I conferred with a majority of the old impeachment committee. I conferred with Padgett; I conferred with Smith. I conferred with Owen; I believe with every one of the first committee. I conferred with Mr. Britton, who was then United States marshal, I believe, for the western district of Arkansas, but who was there all the time. I conferred with Mr. Hodges, and I conferred with members of the legislature generally, with whom I associated and with whom I was

on terms of intimacy, especially with the conservative members of the legislature, and most of what are now called "Brindle-tail" members.

Q. Did you have any reason to believe, from information received from any source, that if the impeachment articles were not abandoned, the award of State aid would not be made to your road?—A. No, sir. That matter I do not think was ever spoken of at all, except that some of the directors of the road, to whom, as I stated before, I made a verbal tender of my resignation, supposing it might have some effect upon the completion of the award already agreed upon by the commissioners before I voted for the impeachment; but that had no influence at all, either directly or indirectly, on anything I did, either in voting for the articles of impeachment or recommending that they be abandoned.

Q. Does the board of review in your State have a right to strike the names of registered voters from the list without giving the parties a hearing?—A. Under the law that was on the statute-books before the last act of the legislature they did. In the first place, the registrars were three in number under the law that existed prior to the last session of the legislature, and they could refuse to register any person they pleased, in fact. There was no appeal from them. After the registration was over they then had what they called a board of review, which was simply they all getting together and reviewing the registration list made in the county, and if there was any they desired should not vote, they had the privilege under the law to draw red ink across their names, and that disfranchised them.

Q. Who constituted this board of review—was it the registrars?—A. The registrars of the county.

Q. In convention?—A. Yes; after the registration was over it was their duty to meet at the county-seat.

Q. The registrars of the different precincts?—A. There were three appointed in the county, and they constituted the board of review who had this power. This provision of the registration law was what the democratic and conservative element of Arkansas was so very anxious to get rid of; and the agreement between myself and Mr. Hadley, made in regard to amendments to the registration law to which I have referred, resulted in the present registration and election law, which I consider a vast improvement on the old.

Q. What were the politics of Mr. Duffie at whose room the Brindle-tail caucus met?—A. He was a democrat. There were two Duffies in Little Rock at the time, brothers; one was State senator and the other one was a lawyer; and when I refer to Duffie's room I do not mean the senator's room; I mean the lawyer's room. They were brothers, and the senator roomed with his brother while he was there, but it was the lawyer's room to which I refer.

By Mr. McCLURE:

Q. You have stated that before the organization of the legislature the democrats met at Townsend's house for the purpose of agreeing on some concert of action by which an organization of the house could be prevented, and thus delay the time for electing United States Senator. Now state whether the "Brindle-tails" at that time were co-operating with the democrats to accomplish such a purpose.—A. Some of them were; all that I had any communication with.

Q. State whether any one of the second set of managers of the impeachment against Governor Clayton were the personal or political friends of Governor Clayton, and whether any of them voted for him for United States Senator at any time.—A. There were none of them

his personal or political friends. I was not in the house at the last election. I do not think any of them voted for him.

Q. (By Mr. BARNES.) What Brindle-tails do you refer to when you say they co-operated with the democrats at the Townsend caucus? Give their names.—A. I stated before that Mr. Carloff was the chairman of that caucus, and because it was called a democratic caucus he picked up his hat and retired. He was regarded as a Brindle-tail republican. Mr. Owen, of Benton County, was another. He met with us on several occasions—more, I believe, than any other republican member that I now recollect of; and they advised us that the disaffected republicans desired that the election be postponed until a complete organization to defeat Governor Clayton.

Q. Who was present when they gave you such advice?—A. The whole democratic caucus was present; it was talked of generally and generally understood.

Q. Did not Carloff and Owen both run upon the Edwards ticket in their districts?—A. I am not advised.

Q. You do not know whether they did or not?—A. I was not familiar with the politics of their districts.

Q. Were you not a friend of Edwards, and did you not vote for him?—A. I did.

Q. And you desired his election?—A. I did. I do not think I voted for Edwards; but I would have if I had been at the proper polls.

Q. But you advocated his claims, and were anxious for his election?—A. Yes, sir.

Q. Did Carloff and Owen pretend to state what individuals they represented?—A. I do not know that they did, particularly.

Q. You do not know that they stated whom they represented?—A. No, sir.

Q. You said you were not present at Governor Clayton's second election to the Senate?—A. I stated that.

Q. You mean by that that you were not in your seat in the house and did not vote?—A. Yes, sir.

Q. Why were you not there?—A. I can state why I was not. I was in Mr. Gallegher's office preparing myself to prosecute the chief justice upon articles of impeachment before the senate, and I supposed the election would not occur until 12 o'clock, and I remained examining the authorities; and the first intimation I had that the election had come on before the hour of twelve, was a yelling I heard over at the State-house, and I inquired as to the cause, and I learned that Powell Clayton had been elected to the United States Senate the second time.

By Mr. NORWOOD:

Q. At what hour did that election come off?—A. I think it was about 11 o'clock.

By Mr. BARNES:

Q. Was it before the usual hour for such work?—A. It was before 12 o'clock; that was the hour I supposed the election would come off.

Q. I ask you if the hour is not fixed by law?—A. If it is, the law shows for itself.

Q. You say that the election occurred at 11 o'clock?—A. My recollection is that it did, or my watch was wrong.

Q. Do you not believe your watch was right?—A. I think it was before twelve.

Q. Do you not know it was before twelve?—A. That is my recollection; because I intended to return at twelve, and I did not get back until after the election.

WASHINGTON, *February* 17, 1872.

WILLIAM G. WHIPPLE sworn and examined.

By Mr. BARNES:

Question. Where do you reside?—Answer. Little Rock, Arkansas.

Q. What length of time have you resided at Little Rock?—A. Ever since September, 1868.

Q. What office or offices have you heretofore held in the State of Arkansas?—A. Assistant United States district attorney of the eastern district of Arkansas, and United States attorney for that district.

Q. What length of time?—A. From October, 1868, to June, 1871.

Q. You are not now exercising the duties of the office?—A. No, sir; I have been suspended from the discharge of the duties of the office.

Q. State what you did in your official capacity as United States attorney in connection with the indictment and prosecution of Senator Clayton, and the other persons indicted for election frauds, at the April term, 1871, of the United States circuit court for the eastern district of Arkansas. State fully, giving a brief history of your connection with those cases.—A. On the 10th of May Judge Boles, now a member of Congress, came to my office and brought with him a printed document which contained a copy of a certificate alleged to have been issued by Governor Clayton to John Edwards as member of Congress, dated 20th of February, 1871, the proclamation of the governor, issued upon the returns in that case, and a certified copy of the election returns for the third election district of Arkansas, and called my attention to those returns and that certificate, and also to the section of the enforcement act of May 3, 1870, which he claimed had been violated. He told me that the day previous the secretary of state, R. J. T. White, and the deputy secretary of state, Major Strong, had been examined in the contested election of Boles *vs.* Edwards, before Judge Whytock, and he stated to me the substance of their testimony, which I can give, if desired. He called my attention to those returns, of which I have here a printed certified copy. Those returns showed that——

Mr. BOWEN. We do not want the witness to state what the returns show. They show for themselves.

The WITNESS. I may be allowed to state that Judge Boles called my attention to the fact that the returns showed that he was elected.

Mr. MCCLURE. We object to that.

Mr. MORRILL. (To the witness.) Judge Boles called your attention to these returns?

The WITNESS. Yes; and claimed that they showed that he was elected. He showed me that on those returns he was elected by a majority of over 2,100; and he called my attention to the twenty-second section of the enforcement act. I have here a copy of the certificate of election, which I desire to make part of my testimony.

Mr. MCCLURE. Is that a printed copy?

The WITNESS. It is. The paper which I now produce seems to be an exact duplicate of the printed copy Mr. Boles brought.

Mr. MCCLURE. I object to its being received as part of the testimony. It is not a certified copy of the certificate; it is a printed copy, not authenticated.

The committee sustained the objection.

Mr. BARNES. (To the witness.) Proceed with your statement.

The WITNESS. Judge Boles brought to my office what purported to be a copy of a certificate issued by Governor Clayton to General Edwards, and a copy of the returns made to the office of the secretary of

state for the different counties of the third congressional district of Arkansas, and also the twenty-second section of the enforcement act, which he claimed had been violated. He claimed that the returns showed that he was elected, and that the certificate, the copy of which he showed me, set forth in effect that it appeared by the returns that John Edwards was elected. He claimed that, under the twenty-second section of the enforcement act, which provides that if any officer of any congressional election should falsely issue any fraudulent certificate of the result of the election, he should be punished by fine and imprisonment. Governor Clayton was liable as such officer. He left with me a written complaint, a copy of which I have here, which I will read, and I desire to make it part of my testimony.

Mr. McCLURE. I object. It is already part of his testimony in this case.

Q. (By Mr. BARNES.) What is the document?—A. I have here the testimony I gave before the Ku-Klux committee. This complaint appears on the fourteenth page of that testimony.

Mr. McCLURE. I say that no such complaint was ever given to him, and I desire the production of the original document.

The CHAIRMAN. There is no necessity of any controversy about this. I think there can be no doubt but that the witness would have a right to say that Mr. Boles brought to him the complaint that is referred to and made a part of his testimony before the Ku-Klux committee.

Mr. McCLURE. That I do not object to.

The WITNESS. I want to make one remark, since the counsel directly contradicts my statement. I say that such a complaint was left with me, a complaint in writing, and I think in Judge Boles's handwriting, and that complaint is now, I think, on file with the Attorney-General in this city, and this seems to be an exact copy of it.

Q. You state on page 21 and 22 of your testimony before the Ku-Klux committee that there was a trade between Governor Clayton and the democratic members of the legislature, by which, in consideration of issuing a certificate to Edwards, they would support him for the United States Senate. Please state the names of the democrats who supported Governor Clayton for the Senate of the United States in consideration of the governor issuing a certificate to Mr. Edwards.—A. I am asked on page 21, "What was the motive of the governor in giving this certificate to a man who was not elected?" I answered, "Of course it is very hard to tell what his motive was. It is generally understood that it was done in pursuance of a trade." I now state that it was at that time generally—understood and is now.

Q. Now read the other two questions and answers, and let them all go together?—A. "I am not able to state the names of all the democrats who voted for Governor Clayton for United States Senator. I am informed that a large number did vote for him for United States Senator more than a dozen."

Q. And yet you cannot give the name of one of them?—A. I think I can give the name of E. H. Chamberlain.

Q. Was he a democrat?—A. He was elected on the democratic ticket and elected as a democrat.

Q. Is he a democrat?—A. I understood he was a democrat at that time. I always understood so. I never undertook to state on this subject with regard to my personal knowledge. The language here is "general understanding."

By the CHAIRMAN:

Q. Is that all you know about it now?—A. I probably know of some important facts tending to prove it.

Q. Have you any personal knowledge of any trade of that kind?—A. No, sir, I have no personal knowledge of the substance of the trade or particular form of the trade.

Q. Have you any personal knowledge of the fact of a trade; do you know of your own knowledge there ever was such a trade?—A. I do not know of my own knowledge, and never have assumed to know of my own knowledge.

Q. How many of the men who held seats in the legislature from the district composed of the counties of Pulaski and White supported Governor Clayton for the United States Senate, who were elected as democrats?—A. Those who were members of the legislature can answer that question better than I can.

Q. I am asking you if you know.—A. I know that E. H. Chamberlain did; that is, I am informed that he did.

Q. You have no personal knowledge on the subject?—A. I was not present when he voted; I think House, another member, voted for him.

Q. Do you know of a single instance where any candidate for the legislature was asked or compelled to pledge himself to vote for Governor Clayton for Senator, as a condition precedent to receiving the support of republicans in the State who were friendly to Governor Clayton's election to the Senate?—A. I do not know anything about that; it might happen to every member and I not know anything about it.

Re-examined by Mr. BARNES:

Q. In your cross-examination you were asked to give the facts on which you based your assertion before the Ku-Klux committee that the frauds in Pulaski County were perpetrated in the interest of the Clayton party. I desire you now to state all the facts you ascertained in reference to those matters at the time referred to in the question propounded by Senator Clayton's counsel.—A. The testimony showed that James V. Fitch, president of the board of registration——

Mr. MCCLURE. I object to his testifying what the testimony showed.

The CHAIRMAN. I think it is a legitimate examination on that matter which was developed at that time.

The WITNESS. The testimony showed that James V. Fitch, president of the board of registration, who was appointed by Governor Clayton, and was understood to be indorsed by him, and who was subsequently appointed by Governor Hadley clerk of the circuit court of Pulaski County, and who was at that time understood to be one of the editors of the Clayton organ, registered voters in precincts other than those in which they resided; that in one instance he issued certificates of registration in the street in his buggy, a batch of half a dozen at one time, and that these alleged frauds were committed in the interest of the democratic ticket for members of the legislature and for Congressmen; that the original books of registration, which the law requires shall be filed with the county clerk, were never filed with him, although the county clerk demanded those books of Mr. Fitch. The testimony tended to show that in one instance Mr. Fitch issued twenty-five fraudulent registration certificates to one man, with instructions that they be distributed among men who would support the ticket which Governor Clayton's friends were understood to support, and to burn the certificates after they were used; that in another case he issued a batch

of fifty certificates of the same kind, in the same manner; that he con bined with democrats to secure the issuance of fraudulent registratio certificates to deck-hands and other hands on steamboats, who di not reside in Pulaski County, and who never appeared before the boar of registration to become registered in regular form; that Isaac C. Mill recently appointed United States marshal, as is generally understoo at the instance of Governor Clayton, delivered a batch of from eight t ten fraudulent registration certificates to a saloon-keeper in Little Roc who was understood to be a democrat, with directions to him to distr bute them among democratic friends. These are some of the fact that I recollect.

Re-cross-examined by Mr. McCLURE:

Q. To whom were the six certificates issued by Mr. Fitch from hi buggy, of which you have spoken?—A. The testimony is that they wer issued to Irishmen. I do not recollect their names.

Q. What witnesses testified to this fact before the grand jury?—A. recollect the name of one witness was Frank Helms.

Q. To whom were the twenty-five certificates issued?—A. The test mony tended to show that they were issued to Calvin Saunders.

Q. What witness testified to that fact?—A. I think David McWho ter was one of the witnesses.

Q. Now, as to the fifty certificates; to whom were they issued?—A I do not undertake to recollect all these things accurately. That i my best recollection.

Q. Who testified to the issuing of the fifty certificates?—A. I thinl the same witness, David McWhorter. However, I will not be certain.

Q. Is Frank Helms a white man or a black man?—A. I do not reco lect. I think he is a white man; but I am not certain.

Q. You think McWhorter testified to the last fifty?—A. I think he did.

Q. Is McWhorter a white man or a black man?—A. A black man.

WASHINGTON, *February* 19, 187

JOSEPH BROOKS sworn and examined.

By the CHAIRMAN:

Q. Where do you reside?—A. At Little Rock, Arkansas.

Q. How long have you resided there?—A. Some three years.

Q. How long have you resided in the State of Arkansas?—A. 1862.

Q. Continuously?—A. Yes, sir.

Q. Were you in the city of Little Rock during the session of th eral assembly in 1871?—A. Yes, sir.

Q. All the time?—A. I was not there until the adjournment; there until the early days of March, when I left and came to th

Q. Were you there during the troublous times of the impea of the governor, and the *mandamus* proceedings and matters kind?—A. Yes, sir.

Q. Were you a member of the general assembly?—A. Yes, si short time.

Q. Of the house or of the senate?—A. Of the senate.

By Mr. BARNES:

member of the constitutional convention of Ar

Q. Were you a member of the legislature next succeeding the constitutional convention?—A. I was, the last session of that general assembly. I was elected in November, 1868, to fill out an unexpired term, a vacancy having been occasioned by the death of one of the members from Phillips County.

Q. Were you in Little Rock during the election of 1870?—A. Yes, sir.

Q. How long had you been in the city of Little Rock immediately before that election—how many days?—A. I was in the city and county during the canvass almost uninterruptedly. I had been absent a few days before the election, for some eight or ten days, perhaps, in Phillips and Monroe Counties, and returned some days before the election; I do not now remember exactly when.

Q. Did you canvass the counties of Pulaski and White during the summer and fall of 1870 for a seat in the senate?—A. Not White County; I was not in White County at all. I did Pulaski County thoroughly.

Q. Were you a candidate for the senate from the tenth district?—A. Yes, sir.

Q. Why were you a candidate in the tenth district? Was it to fill a vacancy or not?—A. There was a vacancy occasioned by the resignation of Colonel Stephen G. Wheeler. I was nominated by the republican convention of the tenth district.

Q. What ward of the city of Little Rock did you live in on the day of the election?—A. The Third ward.

Q. Did you attend the place of voting at that time?—A. Yes, sir; I was there several times during the day. I was not continuously there.

Q. Did you attend the polls at any other ward in the city, or any other precinct in the county of Pulaski on that day?—A. I was at all the voting-places in the city several times during the day; not outside the city.

Q. State how that election was conducted; whether it was violent or peaceable?—A. It was perfectly peaceable, so far as I observed.

Q. Do you know whether there were any frauds committed at that election by anybody or any party?—A. None, so far as I know. The only irregularity of which I had any knowledge was a case at the Third ward polls, reported to me during the day, of an individual voting twice. There were double polls in that ward, and I was told by the by-standers that one man voted at both places. That was the only irregularity of which I had any knowledge.

Q. At what time were the polls opened at your ward? Were you present at that time?—A. I was not present then, and have no knowledge on the subject.

Q. At what time in the morning did you arrive?—A. I should think it must have been from 9 to 10 o'clock when I was there. I was down town at one or two of the other polling-places before I went to the Third ward poll to vote.

Q. What was the republican majority in the county of Pulaski in November, 1870?—A. I am not positive as to the exact figures; I think some two thousand or twenty-five hundred—about that.

Q. What was the usual republican majority in the third congressional district prior to the November election, 1870?—A. I have no distinct remembrance what the majority was in figures at the two preceding elections. My general remembrance is that it was somewhere from two to three thousand.

Q. What was the difference in the vote in the county of Pulaski at the November election, 1870?

The CHAIRMAN. The record shows that.

Q. (By Mr. BARNES.) State the facts in reference to the election of senator and representatives to the legislature of Arkansas in 1870, from the tenth district, within your knowledge.—A. I held the certificate of election as senator to fill a vacancy, from the returning-officers, to that session of the legislature.

By Mr. BARNES:

Q. Were you present at the organization of either branch of the legislature?—A. I was at the organization of the senate.

Q. State what occurred at that time in reference to the organization, and in reference to yourself.—A. At the hour of meeting of the State senate, I, with others, appeared upon the floor of the senate-chamber. I held my credentials from the returning-officers, in conformity with the requirements of law, as senator-elect to fill the vacancy mentioned before. The senate was called to order by the lieutenant-governor, and motions were made for a temporary or ganization of the senate. When the proposition was reached to swear in the newly-elected senators, with others I presented my credentials, and objections were made to my being sworn, as I now remember it, by Senator Mallory, from Jefferson County. My name was not upon a roll which was furnished by the secretary of state, and a resolution was offered and adopted to the effect that the names of newly-elected senators should be called and they qualified only whose names appeared on that roll. My name not having been called, I stated specifically that I held credentials of election strictly conformable to the requirements of law; that I claimed the right to be sworn in as the sitting senator at least to fill that vacancy. The objection being made, as I have mentioned, on the ground that my name was not entered by the secretary of state on the roll furnished him, and that I therefore was not entitled to be sworn in, I raised this question: alleging that in conformity with the action which had just been taken the organization was temporary, and that I had the same right to participate in the temporary organization and to be sworn in as other newly-elected senators whose names had been called and who were then proposed to be qualified. Some little discussion transpired in respect to it when I raised the question for the decision of the lieutenant-governor presiding as to whether there was an organization; whether there was a house competent to pass on such questions until the newly-elected senators were qualified. Although the proceedings then had seemed to be entirely in the nature of a temporary organization, the lieutenant-governor ruled that there was a house; that the senators holding over constituted an organized house competent to adjudicate questions preliminary to the qualification of the newly-elected senators. That being done, although the other newly-elected senators were participating and voting in these preliminary questions, I simply contented myself with stating that I held the credentials and I claimed the seat, but under that ruling of the chair I subsided until the organization was effected, or the completion of the organization accomplished, at which time I should ask to have my credentials filed and to be sworn. They proceeded with the organization until I understood it to be complete, at least so far complete that the other newly-elected senators were qualified. I then asked Senator Snyder, who sat immediately by my side, and who was then a member-elect of the lower House of Congress, to present my credentials, offering them to him. He declined to do so. I then at various times, for several days succeeding, called the question to Mr. Snyder's attention, until he gave me to understand at the hotel one evening that he de-

clined finally to present my credentials at all. I then presented them to Senator Hadley.

Q. Is he the present acting governor of the State?—A. Yes, sir; and I requested that he present them and ask that I be sworn in. He declined. In the mean time Mr. Riley, who had been the candidate opposing me, had made a written application, some week or ten days after the organization of the senate, but was not admitted to a seat, and the paper which he presented was referred to the election committee, of which Senator Hadley was chairman. In requesting him to present my credentials, I insisted that either Mr. Riley or myself certainly was entitled to the seat; that the people of the district were entitled to a representation; that I deemed myself lawfully elected and held the credentials; but if my credentials were not sufficient to admit me, I certainly could not comprehend why Mr. Riley was not admitted; that if he and other prominent senators held that I was not entitled to the seat with my credentials, I thought certainly Mr. Riley must be; that if they would admit him, I would contest and have the question settled; if they would not admit him, then I claimed that I should be admitted and let him contest, stating that we were ready to have the question adjudicated and determined by the senate on a formal contest, one or the other becoming the sitting member, which I deemed absolutely necessary to a regular contest for the seat. Somebody must be occupying it. After several times conversing upon the subject at the senate-chamber, finally, a number of days after the organization, Senator Hadley signified that he would present the credentials but would not ask that I be sworn in. At that interview I showed him some authorities on the subject with respect to parliamentary law. I referred him to precedent and usage, and insisted that as he was the senator from that district he certainly ought to go as far as to request that I be seated on the presentation of my credentials; but he declined and persistently refused except to present them with the request that they be referred to the committee. I insisted in the request that I be sworn, in order to open the way for a contest by my opponent. After that I requested Senator White, a leading colored man of the State and member of the senate from my old county, Phillips, to present my credentials. He signified that he would do so and request that I be sworn in, as he thought somebody ought to be seated; but he did not. He said he would reflect upon the matter and see me again, but he never spoke to me further with respect to it. The matter passed on in this way for some twenty-odd days after the organization of the senate and after the first election for United States Senator. I then resumed my application in conversation with several senators, especially Senator Hadley, and said to him that the election for United States Senator was past, that all the important committees were appointed, the leading features of legislation for the session were blocked out, and that I supposed perhaps all the material objections to somebody being sworn in from the tenth district had been obviated, and again requested that the matter be brought to a determination in some manner. He still maintained the position he had assumed before. I then by an attorney had my credentials conveyed to the lieutenant-governor, the presiding officer of the senate, with a request that he examine them and answer whether or not he deemed them regular and of sufficient authority to justify my being qualified as a senator, and with a request that, if he so deemed on deliberate inquiry, I should like to be sworn in. I did not see the lieutenant-governor myself with respect to it at all; but got information that, having examined and returned my credentials,

if I made application at an appropriate time, he would qualify me. I accordingly appeared on the floor of the senate again on the twenty-sixth or twenty-seventh day of the session, perhaps, after the reading of the journal, and announced myself present with my credentials. They were passed forward by the secretary of the senate to the presiding officer, and he administered the oath of office to me.

When the administration of the oath was pretty nearly completed Senator Mallory called out that he made objection to my being qualified. The lieutenant-governor proceeded, and I was qualified. I immediately moved that my credentials be referred to the committee on elections. The motion was seconded, the question stated and put, and declared carried. Then a division was called for, and a division was had and a count made, and the motion lost, by a small majority; I do not now remember how much. The next morning when the minutes were read, objections were made by some members of the senate, friends of Governor Clayton, to that portion recording the proceedings of the day preceding so far as they related to my qualification as a member of the senate, and a resolution was offered by Senator Rushing expunging all that portion of the journal. That resolution was debated all day and until midnight that night. About midnight a vote was reached and the resolution adopted expunging all that appertained to my being sworn in, and all proceedings relating to myself, as I understood. On the carrying of the resolution at midnight, or near midnight, my credentials being on the table at the time, various motions were made, all of which I do not remember in detail, but I know it was moved, perhaps in different forms, substantially the same motion two or three times, that I be then sworn in on my credentials, then lying on the secretary's table. The senators excepting to my having been qualified, and favoring the adoption of the resolution of Senator Rushing for expunging the journal, insisted in the debate, as they did throughout the day and night, that their objection was based on the irregularity of the proceeding simply, not going to the merits of my credentials or the question of my right to that seat, but simply that the lieutenant-governor had sworn me in in that informal manner; and as the debate was about closing, immediately preceding the vote, Senator Mallory came to my desk and conferred with me as to what was the best course to pursue. He was really the leader on what was called the Clayton side among the senators, so regarded, I believe. He stated that he had no objection whatever to my being sworn in on my credentials, but that his objection was to the irregular manner in which it had been done. Various such explanations were made personally to myself. I suggested that if that was his view and the view of his friends, there could be no further delay necessary; that the credentials were there, and they objected to the manner in which I had been sworn in, they could swear me in again in conformity to their ideas of propriety. He said he would confer with respect to that, and passed about among the senators, and returned stating that all his friends who had been opponents of my admission, as I understood, except three, assented to the proposition; that he was desirous that it might be conducted that manner; but there were three of them who had objected, so that they had caucused the matter only to the point of the passage that resolution and without further consultation; he disliked to call any of those who had been in the caucus into an embarrassing attitude and some three of them objected. I understood him to signify Senator Hadley was one of the three—the present governor; he did not mention any other name to me. The motion that I be sworn

therefore voted down; but it was made, I think, by some other senator, and probably in different form by another. Then Senator Elliott in compliance with suggestions made by the Clayton senators—I mention them thus to designate them—advanced to the table, picked up my credentials, and in a formal manner presented them to the senate, and a motion was then made that they be referred to the committee on elections, and they were so referred, the senate adjourning. It might perhaps be well enough to a complete understanding of the proceedings that I state, that at the time this resolution was adopted and these proceedings I have just stated were had that night, the lieutenant-governor stated that he still regarded me a senator and entitled to my seat under the constitution until I was voted out by a two-thirds vote, and that he should continue to recognize me as such as long as the secretary of the senate continued to call my name. I was there the next morning; my name was called, as I remember, and for several sessions. Objections were made, however. The second morning after that action was taken, on my way to the State-house, I saw Lieutenant-Governor Johnson, and he requested that I should not appear in my seat again until some further action was taken, stating that it was from no personal feeling so far as he was concerned; that he recognized me as a senator; believed I was lawfully entitled to the seat, and if present he should recognize me; but he had information to the effect that violence would ensue; that there was a strong police force ordered to the State-house that morning, and it was then near the hour of meeting; and that they were then in the halls of the house and senate; and that if I attempted to respond to my name on the floor, I would be violently taken from the floor of the senate, and he thought difficulty would ensue, and for the sake of the public peace and quiet he requested that I should refrain from re-appearing there until something further was determined. I responded that I had proposed to continue there until he, as the presiding officer, and the secretary, declined to call my name; that I was ready to furnish our friends on the other side an opportunity to carry me out, if they wished; but if he requested, in the interest of peace, that I refrain from attending, I certainly should do so. I did not, therefore, return to the senate-chamber for a short time, two or three or more days; I do not remember the exact time.

WASHINGTON, *February* 20, 1872.

Examination continued.

By Mr. BARNES:

Q. Proceed with your statement.—A. The next information which I received respecting my relations to the senate was a message from the sergeant-at-arms, or one of his deputies, asking me to appear in the senate-chamber and be sworn in, informing me that the committee on elections had unanimously reported that my credentials were correct, strictly conformable to the requirements of law, and recommending my admission, and that the senate had unanimously adopted the report; and he was sent as a messenger to ask my appearance on the senate floor for that purpose. I proceeded to the senate chamber and was again sworn in as a senator by Chief Justice McClure, of the supreme court of the State. I think on the morning of the eighth day after I was thus sworn in the second time, after the reading of the journal of the senate, I gave notice of some two or three bills, one for homestead-

ing the swamp-lands of the State, another for the exemption of $500 worth of personal property from taxation, in conformity with the provisions of the constitution, almost immediately after which, and not certainly more than 30 or 40 minutes having been consumed after the reading of the journal, Senator Mallory moved that the senate take a recess until two o'clock in the afternoon, which motion prevailed by what was called a strict party vote, the Clayton senators voting for the recess, and all the rest against it.

On the re-assembling of the senate at two o'clock Senator Young, from the committee on elections, presented a report from that committee with respect to the senatorial seat for the tenth district, concluding with a resolution ejecting me from my seat and assigning it to Mr. Riley, who had been my opponent. Recurring to the report of the committee on which I was unanimously seated, it will be observed that the committee having stated that my credentials were in strict conformity to law, and having stated that a written document or statement of facts claimed had been presented and referred to them, coming from Wilshire Riley, alleged that in reporting to have me seated they reserved the right to Mr. Riley to make a contest based on the facts which had been thus alleged, provided he should so desire.

After my seating I had no notice of any contest entered, and, so far as I know, or have ever heard, or believe, no contest was entered; no further movement was made by Mr. Riley to acquire the seat. I had no intimation, directly or remotely, that my right to a seat was called in question, after being thus seated, until the report made by Senator Young was read in open senate. Directly after the reading of the report, (I cannot say as to the precise detail of the proceedings, but before any debate or remarks were had upon the merits of the report,) it was moved by some senator of that side of the question that a vote be taken on the adoption of the report, and he moved the previous question. By various expedients and devices of parliamentary tactics, however, we kept the matter at bay from two o'clock, the time the report was made, until about seven in the evening. During that period of time I made every effort that I knew how to make, by personal appeal as well as otherwise, to leading senators on the Clayton side, Senator Mallory and Senator Sarber in particular, to secure, in some form, a postponement of the question, to give me the opportunity, at least, to prepare for a defense of my rights, to the extent of furnishing some authorities and preparing some remarks, even if I had no opportunity afforded to take evidence in the case. I wrote from my desk several notes to Senator Mallory, and also to Senator Sarber, appealing to them, for the interest of the republican party and the welfare of the State, not to press us to a vote on the question, under those circumstances, without at least a postponement until the next day. I made, myself, various motions for postponement during this period, and finally asked, late in the evening, perhaps about seven o'clock, that the senate take a recess of about one hour, as it had been substantially conceded that, even under the operation of the previous question, they should grant me an opportunity to be heard. I appealed for a recess of one hour, being very unwell and under fatigue with the immense excitement and exhaustion, that I might have time to get a cup of tea. That was refused. During the afternoon or evening, when some one else was occupying the floor, I wrote a note to Senator Saber, requesting to see him in the hall. We retired, both of us, in conformity with that request. While in the hall I appealed to him, especially in our party interests, as we were all republicans, to grant at least an opportunity for me to prepare some remarks

and procure some authorities, either till the next morning or for an hour or two that evening.

Before this interview, I perhaps should have stated that in answer to the note I had written to him at his desk, appealing to him for a little time for preparation, he wrote me, saying that he was conferring with friends and thought he could answer in a few minutes, he hoped favorably. When I met him in the hall, as I have said, he said to me that what he referred to in his preceding note was that he was consulting with Governor Clayton; that he had been to the executive rooms to see the governor on the subject; that he found the governor there with two or three judicial gentlemen; my remembrance is that one of them was a circuit judge, and perhaps two of them members of the supreme bench.

Q. Name them.—A. My remembrance is Judge Bennett, Judge Searle, and either Judge Bowen or Judge McClure; I am not confident as to the latter, but Judge Searle and Judge Bennett, and he mentioned either Judge McClure or Judge Bowen, he had found in company with Governor Clayton consulting on the subject; that they had not given him any definite answer; the governor signified to him that they would let him know in a few minutes. He then said to me that he would go again in answer to my request and see Governor Clayton and ascertain whether or not they might either adjourn the question until next morning or take a short recess, and would let me know; after which I heard nothing from him on the subject. During this evening, late in the evening as I remember it, Mr. Joseph Myers, (a prominent citizen of the place, and who was the preceeding summer, I believe, under the sanction and authority of Governor Clayton, acting as immigrant agent, perhaps on both sides of the water, but at any rate visited Germany,) sent a message to me by one of the pages to see him at the door of the senate. I approached the railing, and he there, in the presence of one or two friends, said to me in substance that he thought the course the senate was pursuing was an outrage; that he was satisfied it could not be with Governor Clayton's approval, and that if I would state on paper what I desired with respect to the matter he would go with it to Governor Clayton, and he was satisfied that it could be arranged. In conformity with his request, and the approbation of a friend or two, I wrote, as I remember it, in pencil at the time and under excitement. I only remember substantially what was stated—that I desired merely an opportunity to be heard, and that a fair and full investigation should be had, but especially desired an adjournment of the question until the next day. Mr. Myers received the note and left the hall. I have never heard from that since. I know nothing of the result of that matter. Finally I had the opportunity of making my remarks, and occupied some three or four hours in doing so; the whole matter concluding a few minutes after twelve o'clock at night with the adoption of the report of the committee and the resolution ejecting me from the senate.

Q. Did you have any opportunity whatever to appear before the committee on elections, either in person or by counsel, to manifest your right to a seat in the senate?—A. I had no opportunity, no notice, no intimation, that my seat was called in question.

Q. Have you any knowledge of Riley ever appearing before that committee in any form, either in person or by attorney, to manifest his claim to a seat in the senate held by you?—A. I have no knowledge that I ever did. On the contrary he told me afterward that he never had, and never did appear before the committee after I was seated.

Q. Do you know Moses Reed, of Little Rock?—A. I do.

Q. You have seen what is called the Mallory report on file before this committee, I believe?—A. Yes, sir.

Q. Is Moses Reed, the person therein referred to, the person you now refer to?—A. Yes, sir; he is the only man of that name that I know of in the State.

Q. It is alleged in that report that Moses Reed is your son-in-law. State to the committee whether that is true or not?—A. It is not correct. There is no relationship existing between us.

Q. State what you know about an armed force being placed at the senate and hall of the house of representatives at the time of the organization of the legislature, and what then occurred.—A. I may state that at the time of reaching the State-house on the morning of the organization of the general assembly, I observed Sheriff Oliver of the county and quite a number of men who seemed to be acting as a police force—some two or three of the regular policemen and others that seemed to be officiating under their supervision in the hall between the two chambers of the house of representatives and the senate, and apparently managing the doors. I was accosted by one of those men as I proposed to enter the chamber and he asked my right to enter. I stated that I held credentials of election as a member of the senate and was permitted to enter.

Q. Where are your credentials of election? Do you know?—A. I do not. The last information I had respecting them, they were referred to the committee on elections, of which Senator Hadley was chairman. I have never seen them since.

Q. State what you know, if anything, about an agreement alleged to have been made by James L. Hodges and Dr. A. K. Hartman, at the office of Rice & Benjamin, just before the November election in the State of Arkansas, by which it was agreed that the polls should be usurped in the city of Little Rock and the county of Pulaski, and the legally appointed judges prevented from holding said election and substituting judges and officers of election by the people at the polls on the morning of the election before the regular hour for opening the polls, and setting the town-clock ahead.

The WITNESS. I have no knowledge of any such interview or arrangement.

Q. (By Mr. BARNES.) Did Dr. Hartman, before or after the alleged interview with Hodges at the office of Rice & Benjamin, inform you of such an agreement with Hodges; and if so, did you or did you not assent to it, and agree to carry it out?—A. There never was any conversation; not a word passed between Dr. Hartman and myself with respect to it at any time.

Q. Did Dr. Hartman or anybody else in any way or manner communicate to you that such an agreement to usurp the polls, as stated in the previous question, was contemplated or agreed upon in any way?—A. No, sir.

Q. Have you any knowledge, in any way whatever, that Dr. Hartman or any other person set forward the town-clock in the city of Little Rock on the morning of the election? If so, state who did it.—A. I do not know anything about it.

Q. Have you any knowledge of any fraud or unfairness, on the part of what are called the Brindle-tails or the opponents of Governor Clayton, in the election of 1870, in the county of Pulaski? If so, state it.—A. I have none whatever.

Q. Were you in any way or manner a party to the *mandamus* case in the supreme court of the State of Arkansas of Howard and others *vs.*

McDiarmid and others?—A. No, sir; I was no party to it and had no knowledge of it until it was all over, having been absent from the State at the time.

Q. Was Mr. Riley's name upon the roll of senators at the organization of the senate?—A. I can only state that neither name was called from the roll by the temporary secretary.

Q. State if you know of any plan, agreement, or arrangement at or before the meeting of the legislature, or at any other time, by which what were called and known as the Brindle-tails were to usurp or take forcible possession of the legislature of the State of Arkansas, or prevent or obstruct its legal organization in any way; and if you know it, state fully what was the state of the case.—A. I have no such knowledge at all, and never heard of anything of the kind among my friends until, perhaps, the evening before the organization. I then heard it stated that such things were alleged around town by the friends of Governor Clayton, so far as I know, without the shadow of foundation in fact.

Q. (By Mr. BARNES.) State whether reports of force were or were not circulated about that time; and if so, by whom; and state also whether there was any foundation for those reports.—A. I think I could say, dating back a few weeks preceding the meeting of the general assembly, about the time of the organization of the city government under the municipal election there, that such a policy seemed to be the leading characteristic of the Clayton men. John G. Rice, the editor and proprietor, jointly with the chief justice, of the public printing contract, and the leading Clayton organ there at the time of the organization of the city government, talked very freely of force and violence. On Sunday evening, preceding the organization of the city government on Monday morning, I was called on frequently, being ill and confined to my room at the time, by leading colored men about town, alleging that there were threats of violence; that Mr. Price and other prominent men of that party had told them that there would be violence and blood; that riot was imminent; that the Ku-Klux were about to come down upon them at their churches and murder them, and especially that Mr. Price had stated that when the blow was struck he would not give a damn for the heads of Captain Hodges and myself; that we would be the first to cross over Jordan. I endeavored to quiet these apprehensions, told them it was all a fiction, until after their congregations met Sunday night. They came to me with statements from men that I could not reject; presumed there must be, from some cause or other, something afloat in the atmosphere, and I therefore counseled them to disperse from their churches, as they were in great alarm, professed to be, and stated they were. Prominent colored men came alleging that fact, and I told them they had better adjourn their church services and go quietly to their homes and remain, adding that I was satisfied there would be no violence brought to bear. I was not present at the organization of the city government; know nothing personally of the bearings during the latter part of that night and the next morning, and can only state such things were rumored to be afloat during the night and next morning, up to the time of the organization of the city council, and that it was alleged by men prominent in municipal circles at the time, (as far as I know, by no one connected with the State administration at the time,) that the object of forcing such an organization as was effected of the city government was with a view to bring the police power and the municipal authorities to bear at the time of the organization of the legislature, and during its session, for the purpose of

preventing the successful movements of the other side against Governor Clayton's election to the Senate.

At the time of the organization of the general assembly, as I stated in answer to a previous question, the evening preceding that organization, these things were rife in the community. I do not know that I could mention any one of Governor Clayton's particular friends who spoke to me on the subject, but I heard the matter talked of very freely around town among the leading colored men and prominent white men of our political side as being put up with a view to resist what they claimed was put up on our side to take possession of the halls of the general assembly during the night with a view to controlling violently the organization next morning.

As the question seems to cover the whole subject, I may say that throughout the proceedings of the general assembly, from day to day, almost during the entire term, up to the time I left for this city, or very nearly so perhaps, it subsided a few days before. Such things were commonly talked among the leading Clayton men, and were prominently written, as I understand, by the chief justice, then editing the Clayton organ, in which it was alleged that men of the opposite side were arranging for violent demonstrations, for the capture of the State-house and executive department, and all that sort of thing, especially during the pendency of the notice to Governor Clayton of the passage of impeachment articles by the house, during which time the editorial leaders, day after day, threatened vengeance, and that whoever approached the executive end of the capitol would be sent to the nethermost hell in thirteen seconds—I think that was the time specified in one article—and such articles were very common, almost perpetually issued at that time.

Q. Was there any foundation in fact for any of those alarms or charges against yourself or your friends, or anybody opposed to the election of Governor Clayton to the Senate? if so, state the facts.—A. I have no knowledge whatever of any ground for any such rumors.

Q. It has been admitted by Senator Clayton's counsel that there was an armed force at the capital at the time of the impeachment resolutions against Governor Clayton. State whether that had any influence upon the investigation against Governor Clayton, or prosecutors or witnesses engaged in that case. If so, state the effect.—A. I had conversation frequently with two or three of the members of the house appointed on the first committee for the prosecution of the articles of impeachment, especially Mr. Padgett, of Independence, Mr. Fulton, of Drew, who has testified before this committee. They spoke of the intimidating effect of the military demonstrations around the State-house upon certain members of the house of representatives, and some of the members of the committee appointed to prosecute the impeachment charges; that they apprehended serious difficulty, both these gentlemen speaking—Mr. Padgett in particular, with whom I conversed most—of his personal readiness to go forward during the early pendency of the articles, if they could secure the presence of a quorum of the senate, at the same time expressing the apprehension that if they did, from the military demonstrations which were made on the day that articles were voted by the house and immediately subsequent, that he deemed that it would result in violence. In the event of a majority of the senate being present and notice secured so that it must be recognized and the governor suspended, he believed it would be met by armed force, predicating his apprehension upon such things as I have mentioned in answer to a previous question. When the absconding senators returned, and rules

were adopted by the senate for the government of the prosecution, Mr. Padgett and perhaps others, I think others of the committee, expressed to me and in my hearing their belief that it would amount to nothing, that they would be utterly foiled in the attempt at prosecution, if need be by force of arms, and that it would precipitate violence and bloodshed in the capitol, and that they really regarded civil process practically at an end, and they, therefore, deemed it best for the public interest that they retire from the contest, resign their position on the committee for the prosecution of the impeachment.

I may state furthermore that, under that state of facts, as represented to me by those gentlemen, and in view of the military demonstrations which I witnessed myself, I concurred in their view that it was fruitless and might be productive of great difficulty if they did go forward; and as far as I was concerned, I assented and approved of their withdrawal.

Q. Were you invited on any occasion before or about the time of this investigation to attend a caucus of republicans in reference to the impeachment; and were there any fears expressed at that time by members of the legislature about going on with the investigation?—A. I was, I think, a day or two after the vote in the house. In the evening I was invited to such a caucus, and attended. I think all the members of the committee appointed to prosecute, that were members of the republican party, were present, and a large number of republicans besides; and at the opening of the caucus, it was the first I had attended, and the only one I attended after the organization of the general assembly, of any party during the session, they expressed that the object in inviting myself and one or two other members there that evening, as we were not members, was to confer with respect to the prosecution of the charges, especially with reference to the military demonstrations which were made about the capitol, and the rumored purpose of resisting by force upon the part of Governor Clayton and his friends, and they solicited from me an expression of opinion in that regard. That was perhaps the second or third day, as I remember it, after the vote had been taken in the house. I then expressed the opinion that the rumors were all for effect, and that nothing real of the kind was intended. I expressed the opinion from my knowledge of the men who were prominent in the State administration, that whatever might be their preferences for Governor Clayton and their disposition to carry their arrangements through by the ordinary appliances of such contests, they would not resort to any violence or precipitate bloodshed in the capitol, and expressed the opinion that if in the judgment of the committee and the house, as the house had already expressed it, the governor was guilty of high crimes and misdemeanors for which he ought to be impeached and deposed, it was not only permissible, but their bounden duty, to go forward fearlessly with the prosecution of the impeachment, that I did not think violence would be resorted to.

Q. Did you succeed in removing their fears?—A. I think the conclusion that night, as far as I gathered it, was that they would proceed. The conversation that I have mentioned, in answer to a previous question, transpired some days afterward.

Q. State whether or not there was a military organization during the legislature.—A. My information is from other parties. I had no personal connection with it, and therefore had no individual personal knowledge other than information from individuals claming to be members of the organization.

Q. (By Mr. BARNES.) State who were the parties composing the military organization, and what they said.—A. I never had personally any conversation with the individuals. It was information given in writing.

By Mr. BARNES:

Q. Have you any other knowledge which you can give to the committee, any facts showing the purposes of that military organization? If so, state them.—A. Nothing except on information akin to that I have named. Another individual who claims to have been a member has made similar statements.

Q. Did he make them in person to you? If so give his name and the statements.—A. I would not be positive. I could not testify that he made them to me or in my hearing.

Q. Have you told all that you know upon that subject, within your own personal knowledge?—A. Yes, sir.

Q. Did the "Brindle-tail" caucus that you attended, or any political caucus, receive any reports from the democratic caucus of the members of the legislature, while you were present, or do you know of anything of the sort? If so, state it.—A. I think, according to my understanding of the definition of the term, there was no Brindle caucus during the session of that legislature or preliminary to the organization. I attended two or three caucuses before the organization, and one after the organization, to which I have already alluded. The caucuses which I attended before the organization were caucuses of what were designated as McDonald men at the time, republicans favoring McDonald's election in preference to Governor Clayton's. At those caucuses there was no communication or information of any kind whatever received, so far as I know, from any democratic caucus or any democratic member of the general assembly.

Q. Were they held before or after the meeting of the legislature?—A. Before.

Q. Why did they discontinue?—A. Well, sir, I could scarcely say, except that a number who supposed themselves to be members-elect of the general assembly at that time were not admitted on the organization of the general assembly, and having been excluded, of course we held no further consulations.

Q. Did or did not Senator McDonald withdraw about that time?—A He did in a published card, I think, on the 3d or 4th of January, which was the next day, or the next day but one, after the organization of the legislature.

Q. Have you that card with you?—A. I have not.

Q. Were you acquainted with Senator Caraloff and Representative Owen from the county of Benton?—A. I was not acquainted with Caraloff at that time, at the time of these caucuses; I was with Owen.

Q. Did either of them ever attend any of the caucuses you refer to?—A. Not so far as I know.

Q. Were they republicans or democrats; what was their political status at that time?—A. I regarded Owen as a republican. I regarded the other as a democrat at that time. That was the understanding I had, although I did not know Senator Caraloff at all.

Q. State whether you at any time had a conversation or conversations with Senator Clayton in reference to his election to the Senate of the United States, and in reference to your exclusion and the exclusion of Hodges and the other republican claimants to seats in the legislature; and if so, state where that was, when it was, and who was present. Give the whole of it.—A. I had two conversations with Governor Clayton.

Q. Give each of them, taking them in the order in which they occurred.—A. I suppose they might be denominated conversations. One was before the November election. That was in the presence of Gov-

ernor Hadley, Colonel Lewis, commissioner of immigration and State lands, Senator McDonald, Captain Hodges, Senator Rice, Governor Clayton, and myself. It could hardly be denominated a conversation between Governor Clayton and myself, strictly; no conversation passed between us at that interview with respect to his candidacy for the senate. It was because of that that I answer as I have done. In the course of that conversation, the substance bearing on the question presented to me was a statement by Governor Clayton that, in the event of the adjustment of differences in several of the districts then existing between his friends and those who were friends of Senator McDonald for the place, if he secured his nomination by the republican members of the general assembly when convened in caucus, he should desire and expect those who made the races and were elected as republicans in the several districts to support his nomination for the senate. I stated, in response, as one of the principal districts where these controversies were existing was the tenth district, where I was a candidate for the senate, that to us that would be entirely satisfactory; that while myself and Captain Hodges and those associated with us on the ticket were not favorable to his nomination and election, we were nevertheless republicans, and if by a fair expression of the republican members when convened in caucus or consultation he secured the nomination over Senator McDonald, we should no doubt support him for the place. That was the substance of all that took place between us at that time, as far as I now remember.

Q. Now, respond to the question as to the second conversation, if you had any, giving the time and place and persons present.—A. The subsequent conversation with Governor Clayton was after the first senatorial election which occurred, I think, on the 10th of January. After I had been sworn in as a member of the senate by the lieutenant-governor in the manner I detailed yesterday, and before I was sworn in the second time on the report of the committee, as stated this morning, during that interregnum I was present at a consultation at Lieutenant-Governor Johnson's rooms. I cannot mention the date any more accurately than I have given it. Some time about 11 to 12 o'clock at night, during that time, I was called upon by Captain William A. Britton at my residence, called out of bed, and informed when I approached the door that my presence was desired at a consultation between Governor Clayton and Lieutenant-Governor Johnson. Learning something of the general drift from him, I proceeded dressing to a carriage standing at the door in which I found Captain Hodges. We three proceeded to Governor Johnson's rooms. He was then lodging at Mr. Berry's, the State auditor. On arriving there we found Lieutenant-Governor Johnson, Senator Clayton, and Judge Bowen.

Q. Judge Thomas Bowen, the gentleman present here as counsel?—A. Yes, sir. I think the opening of the conversation was by Captain Britton, followed by Judge Bowen, stating the objects of the interview, to see if anything could be done to reach an understanding and adjustment, so as to enable Senator Clayton to carry out his wishes and those of his friends in accepting the position to which he had been elected, of United States Senator.

By the CHAIRMAN:

Q. Was this before his resignation?—A. After his first election and before his resignation. The conversation was very lengthy. I can of course give but the substance of it. The interview continued nearly all night, perhaps till day-dawn. Governor Clayton stated, and it was also

reiterated by Judge Bowen, that he had pledged himself both during the canvass and after the meeting of the legislature, publicly, and also in a caucus or caucuses of his friends before the senatorial election, that in any event he would not accept an election to the Senate and vacate the governorship with Lieutenant-Governor Johnson succeeding, and that some arrangement must be effected to enable him to carry out his promises and pledges to and with his friends before he could accept, and they desired to reach an adjustment with Captain Hodges and myself and our associates on the ticket there and friends generally, as I understood it, in Pulaski County, and also with Lieutenant-Governor Johnson and those who were regarded as his more immediate friends, more immediate even than ourselves, so that he could accept the position to which he had been chosen.

He reiterated his often-expressed desire to be a member of the United States Senate, the earnest efforts he had put forth to secure it, stating that it was more than the dream of his life; that he was very ambitious, his heart was set upon it; that in answer to charges often made and allegations stating that he was ambitious, he stated he was as ambitious as Cæsar; that he would not only be United States Senator, but, if he had the opportunity, he would sway a scepter of universal empire, or words to that effect; that therefore we would see that he was anxious to so arrange matters that he could carry out his pledges with his friends and come to Washington. I responded chiefly, Captain Hodges often, however, intervening with remarks; I answered to those portions of the conversation by stating to the governor that he knew full well that we had been opposed to his election; that if we had been in the general assembly, as I believed we had a right to be, believing that we were elected, we should, in caucus, have defeated his election, if possible, by honorable means, but that there the struggle would have ended with myself, and so far as I knew with the members of our delegation. I stated to him that it was certainly a very new development in political tactics with me that the successful party had to be conciliated. He signified that his friends must have matters adjusted in conformity with his pledges, agreements, and understandings, or he could not and would not accept. I stated that it was certainly new in political tactics that the successful party had to be conciliated. I thought if any adjustment were necessary or required, any conciliatory measures, it should have been those of us who had opposed his election in order to harmonize the party, and that I thought it was, of course, to his interest as well as that of the rest of us that he should not only secure an election, but, having been elected, that he should leave a united, harmonious party behind him; but that we required no conciliation; we asked no adjustment; all we asked was, as he had secured the election, though by means that he knew we could not approve and did not approve, that he should quietly proceed to occupy the seat to which he had been chosen, and that we should be permitted to take our seats in the general assembly to which the people had elected us.

He and Judge Bowen in particular (who seemed from the conversation to be equally interested with Governor Clayton and equally to represent Governor Clayton's wishes and feelings with himself) stated that in order to have this adjustment it was necessary that we should have some understanding with regard to what course we would pursue when in the general assembly, and referred especially to what was called the Hot Springs contest, which was then going on in the house, and signified not only a desire, but, as I understood it, and I think as other friends present did, and as perhaps it was intended, as a condi-

tion-precedent to our admission, that they should expect and require that our friends in the house, not only those who were to be admitted, but other friends of ours who were then members of the house, should vote and act on that Hot Springs contest with the Clayton men. The name of Mr. Fulton, who has testified here, and of Mr. Haskins, from Saint Francis County, and Mr. Webb, from Chicot, all colored members of the house, were especially mentioned; and it was stated there by Governor Clayton or Judge Bowen that I would be expected to use my influence with those colored members, with whom I was supposed to have some influence, to have them vote against the contestants in the house. In response I stated explicitly that they were mistaken, doubtless, as to what had been transpiring in that regard; that I had not counseled those colored members to vote either way on the question; that I had simply said when they had spoken to me, as they often had, that they were sworn representatives of the people, under obligations of the most solemn character to vote and act in that and every other such matter in conformity with the facts and evidence, as they understood them when presented; that if in their judgment, when the evidence was all before them, the sitting members were the lawfully elected members, of course they should vote to sustain them; if, on the contrary, they found in their unbiased judgment that the contestants, agreeably to the testimony, were the members-elect, I could not of course counsel them to perjure themselves, and I stated at the time that I would refer more especially, as far as the house was concerned, to Captain Hodges, who was a member-elect of that branch of the general assembly, and more familiar with our friends who were elected with him on the ticket than I was there.

For myself, I stated that I claimed to be lawfully elected. I stated to the governor that I thought he knew I was; that if I had any doubt on the subject there was not martial law enough or militia enough in the State to keep me in the seat if I were there; that if I was lawfully elected, then I claimed the seat without conditions and without pledges; that I would, however, state that I believed myself to be a republican, not only unquestioned, but unquestionable; that, if admitted to my seat, on all political questions I would undoubtedly act and vote with Senator Clayton's friends, if they were republicans as he claimed, and as I did not question. I had no question to make on that subject; of course we might differ as to what were party measures; in that event I claimed the right of private judgment; that with respect to general legislation I did not regard myself under obligation to Governor Clayton or anybody else, except my constituents, for my course.

Governor Clayton also spoke of the necessity of adjusting matters with Lieutenant-Governor Johnson, and Lieutenant-Governor Johnson expressed not only a willingness but a wish that matters might be adjusted so that Governor Clayton should come on to Washington and permit him to occupy the seat, he in turn expressing some ambition to be governor of the State. Governor Clayton and Judge Bowen then suggested as a possible plan of adjustment that Governor Clayton should retire, if we adjusted matters there at home, and spend some time abroad during the summer, and permit Johnson to try his hand as governor; see whether he could so conduct the State administration as to be satisfactory to Governor Clayton's friends, and if so that in December perhaps, if not at the spring term, he would come on to Washington and claim his seat; or otherwise he would be compelled to resume his position as governor. In response to that I answered that I thought Governor Clayton's friends were not the only men to be consulted with

respect to the State administration; that personally I felt a very great aversion to any such horse-swapping on the subject; that the people had elected Governor Johnson lieutenant-governor at the same time and on the same ticket with Governor Clayton, and that whether he was entirely satisfactory to all parties and all factions of parties or not, was a question that I thought was unbecoming us to discuss; that Governor Clayton had been elected after the fashion he had been to the United States Senate; that Governor Johnson, by virtue of his vacating the seat, became governor under operation of law; that I thought the law should be permitted to take its course, and the people and the State administration take care of themselves as best they could in the absence of Governor Clayton, and I expressed to him kindly, but very decisively, that I thought we could get on, after a fashion, or at least I was willing to try the experiment.

During this conversation, in canvassing the question of adjustment there in that county particularly, where the main contest had been, I had stated that we required no conciliation except for Governor Clayton to go to Washington as Senator, let the constitution and laws of the State take their course, and let Governor Johnson assume his duties as governor, and for them to suspend what I designated their star-chamber performances through the Mallory committee, as it was called, stating that we had been denied the right of a hearing there, Captain Hodges and myself, and our associates on the ticket; that we had not been admitted to our seats, and that I felt and I thought I represented the feelings of our friends; that there could be no harmony or restoration of friendliness of feeling in these respects unless they either gave us a chance to be heard fully and fairly before that committee, or the committee dissolve, and their *ex-parte* proceedings cast into oblivion.

In answer to that statement of mine, Governor Clayton said that he thought that if other matters could be arranged there would be no difficulty with repect to that committee; that he could there state to us what he supposed we had understood before, that that committee and its proceedings were projected simply for the purpose of a counter-pressure to a fight which he understood we were putting up on him at Washington. I stated to him that so far as I knew, so far as I was concerned, and so far as my information extended, he was mistaken; no fight had been put on him at Washington, nor was any contemplated; but my feeling was certainly, and so far as I knew that of our friends, that we were entirely content for him to come on and occupy his seat unmolested; that while we had our views of these matters, believed that we had been wrongfully and outrageously and unlawfully kept out of our seats, through his influence chiefly, that was past, and it was useless to discuss it, and certainly if we had any idea of harmonizing it would only tend to irritate.

In the course of the evening's conversation, I think primarily called out in conversation with Captain Hodges, I remember distinctly to have heard it—however, I do not remember whether it was with him or myself primarily—in discussing the probabilities of the result if we had been in our seats, the governor expressed the opinion that if our delegation had been admitted at the organization of the general assembly he would have failed of his election. Captain Hodges said to him that he thought that was an entire mistake, or at least that it was probably a mistake, from the fact that he thought the way matters were put up in the other districts of the State, the governor would have had a majority in caucus of the republicans even if we had all been seated at the organization, as we thought we had a right to be, and that as we had expressed

to him. I had in the conversation alluded to before the election, and I understood Captain Hodges and understood him then to allude to conversations had by him with Governor Clayton subsequent to the election, he had assurances that we would abide the determination of the caucus of the republicans of the general assembly. Governor Clayton reiterated his conviction that if we had been admitted to our seats he would not have secured his election.

I was finally, late in the night, perhaps near day-dawn, appealed to, I think, by Judge Bowen, it may have been by Governor Clayton, but I am confident, on recollection, it was Judge Bowen, because it was put in this form: to know whether I would be satisfied with any adjustment that might be made of a satisfactory character between Governor Clayton and Lieutenant-Governor Johnson. I responded that I had expressed my views fully in the conversation which I have now, in part, stated, only so far as I am personally concerned, but that, of course, any adjustment which might be made between Governor Clayton and Lieutenant-Governor Johnson, as between themselves, I had nothing to do with, and would make no trouble about. I did not design to be troublesome to anybody, most of all, to public functionaries, and any adjustment which they made, satisfactory to themselves, so far as they were personally concerned, I would not intermeddle with.

We separated about the crack of day without any further adjustment, so far I knew or was concerned, than I have named.

By Mr. BARNES:

Q. State What Governor Clayton said on the subject of the Mallory committee and the other committee, and the proceedings to exclude these members?—A. I understood his remarks, which I have in part stated, to be to the effect that the Mallory committee of investigation was projected by himself and its proceedings carried forward under his direction, and with a view, as he stated it, to furnish counter-pressures to a supposed fight of ours against him here.

Q. Did he refer to his military operations or organizations at that time with a view to carry out this pressure; was there anything said on that subject?—A. Nothing, so far as I remember.

Q. What efforts did you make to get before the Mallory committee?—A. Hearing that such a committee was in existence and examining witnesses or taking testimony in some form or other, I made written application, having been a candidate before the people in that district, directed to the chairman of the committee, as I remember, or directed to the committee or its secretary, setting out in substance what I had heard they were engaged in, and as a party in interest, not only as a candidate for office, but, as I understood, the investigation was involving in its course of procedure, perhaps, personal reputation, character, I solicited and claimed the right to be permitted to appear there and hear what was testified, and if deemed necessary to furnish rebutting testimony exculpating myself and friends from the charges that were being alleged.

Q. Did you get any answer?—A. I never received any response whatever.

Q. Were you summoned before that committee in any way?—A. I was.

Q. How? Give the circumstances.—A. By the sergeant-at-arms of the senate or some of his subordinates, I believe, in what I understood at the time to have been an order or summons issued by the committee, but which I afterward supposed, from having seen a similar document and examined it carefully, that was served on Captain Hodges, to have

been a writing prepared simply by the clerk of the committee, General D. P. Upham. At the time the service was made upon me, on the presumption that it was regular, simply observing the substance of it and paying no particular attention to its form, supposing it, of course, to be regular and proper, and issuing from the committee, in obedience to that summons I appeared at General Upham's office at the day and hour specified. Having remained a few minutes and finding no committee there; having heard, at least, or, perhaps, observed in the proceedings who constituted the committee, observing no member there, I announced to Mr. Upham, understanding him to be the clerk, that I wished him to say to the committee, when they did convene, that I had been there in obedience to their summons, and, not finding them there, I had retired, mentioning that perhaps I would call back that way after I obtained lunch, as it was lunch-hour, supposing the time had not yet arrived for them to come, or that they had been detained and were not there. I did return by the building, although I did not enter the office, observing that there was no committee in session.

Q. Did you have any paper served on you afterward, or did you appear before that committee in any way?—A. I never appeared before the committee. I was served afterward with a paper by the sergeant-at arms of the Senate, purporting to be a summons to appear before the clerk of the committee, stating that it was to appear before "the undersigned" to show cause, if any I had, why I should not be punished for contempt, signed by the clerk of the committee.

Q. Did you appear under that?—A. I did not. If not in contempt before, I immediately became in contempt with all such stuff issuing simply from a citizen of the country employed to discharge the clerical duties of a committee without any authority, and I paid no attention whatever to the matter from that forward.

By Mr. NORWOOD:

Q. Was that committee at that time investigating your claim to a seat in the senate?—A. Not so far as I know. There was no contest.

Q. What were they doing?—A. The only information which I had of its object or proceedings that I deemed at all authoritative, was that given by Senator Clayton, which I have previously detailed.

Q. That is not the committee that had your case before it?—A. No, sir; that was the committee on elections of the senate which had my case under consideration. This was a special committee.

By Mr. BARNES:

Q. That committee denied you the right to be present, as you have stated?—A. I made application in writing to be present, but never received any response to my application.

Q. Did you make an effort on the part of your attorney to appear before the committee on elections and present your claims and contest your right to a seat?—A. I did not, for I had no opportunity. I was not permitted even an hour's recess from the chamber of the senate.

Q. Did you not, before the meeting of the legislature, receive a notice of contest from Riley?—A. Yes, sir; I did.

Q. Was any disposition ever made of that contest formally, or did they grant you any hearing upon it in any way? Was there any evidence offered upon that contest in any way? Were you permitted, by yourself or attorney, or witnesses, to appear?—A. That was simply notice on me of a contest; no contest, in fact, was ever entered before the senate. The report of the committee on elections, on which report I was sworn in, stated that they reserved to my opponent the right to

contest; but he never entered any contest, and I had consequently no hearing, either in person or by attorney, and no notice or intimation of the fact that my seat was called in question, or would be after I was sworn in.

Q. And you were not before that committee at any time, at any of its sittings?—A. Not at all.

Q. Did not Judge Bowen, at the interview you have referred to, take as much interest in these adjustments as Senator Clayton did himself, apparently?—A. I think so, and perhaps did more talking on the subject than the Senator did himself.

Q. Did not Bowen meet you at your house and have a conversation with you in reference to the adjustment and Senator Clayton's election to the Senate? If so tell what occurred.—A. The judge called on me at my house a few evenings before this meeting at Lieutenant-Governor Johnson's rooms. We had a conversation substantially in the same line of this detailed conversation afterward had. Captain Hodges came in directly after Judge Bowen arrived at my place, and we three had a conversation. Almost immediately on the conversation being opened, Captain Hodges arrived and was present all the rest of the time.

Q. In whose interest did Judge Bowen claim to be acting at that time? Whom did he profess to represent?—A. I understood him to represent Governor Clayton's interest and his friends.

Q. What was said by him besides what you have stated?—A. I do not know of anything special or varying from that line of remark.

Q. Had you any consultations or conferences with Governor Hadley, who was then senator, at or before the session of the legislature, on the subjects as to which you have been examined this morning? and if so, state what occurred.—A. I had quite a number of interviews and lengthy conversations with Senator Hadley on these general questions with respect to Governor Clayton's candidacy for the Senate.

Q. Had you a conversation with him before that time in reference to his succession to the position of governor of the State? Give the substance of each conversation.—A. These conversations opened up between Senator Hadley and myself during the canvass immediately preceding the election; the first that I call to mind now, after having returned from an appointment for public speaking in Campbell Township, in Pulaski County, where I had met Senator Hadley, who was there fulfilling an appointment of Governor Clayton, as I understood. We conversed on the subject that night on our return to the city, and he visited me some three different times afterward, spending most of the evening each time at my boarding-place. The drift of the conversations at those times was on the line of an understanding which he seemed anxious to reach, both on behalf of himself and Governor Clayton, for the election of Governor Clayton to the Senate and his own succession to the governorship. I presented it to him (as I did when spoken to by other parties on the same line frequently for months before) as, to my mind, an insuperable obstacle to any arrangement that would bring him into succession as governor, or anybody else; that Governor Johnson was lieutenant-governor, and necessarily, by operation of law, become governor in the event of Governor Clayton's election. Mr. Hadley stated to me that he thought Johnson would be removed. I asked him several times specifically by what process, and he stated that he thought by the *quo warranto* which was then being prosecuted against him, or at least was then pending against him; but that in the event of a failure there, he thought he would be disposed of; that was the language generally used; he thought he might resign or he might

receive a Federal appointment somewhere that would vacate the place. He never intimated impeachment to me, but said that the place would be vacated, he thought. One evening in a conversation protracted until one o'clock at night, at my boarding-place, he concluded with various appeals personal to myself, saying that he regarded the whole affair as having nothing of moment in it at any rate except the pecuniary considerations; that he thought we should be great fools to cast away such opportunities as were proffered us there by a general row and break-up; that if he could harmonize and work together, he thought our pecuniary interest would be very materially promoted. I responded to that that probably there was no one prominently connected with the politics of the State who more imperatively needed relief in a pecuniary point of view than myself; but that while I thought there were very fine opportunities in the development of the country and the enhancement of values, if we could go forward and secure a stable government and a faithful and honest administration of public affairs, I thought there were not interests enough of that character in the State to induce me to engage in any improper proceedings for the vacation of the office of lieutenant-governor or any kindred measure; that I viewed the matter very differently; that I thought the interests arose paramount to all pecuniary considerations; that the soil of the State had been baptized with the life-blood of my nearest kindred; that I had risked and lost all but life in the contest, and I disliked to be spoken to on that key.

He then suggested that if myself and friends would consent to an arrangement by which Governor Clayton should be elected to the United States Senate, and Johnson removed, and assist in Johnson's removal, or give support, (that was the understanding I had,) moral and political support, and permit him to become the successor to Governor Clayton for the unexpired term, he and his friends, including Governor Clayton, as I understood it—and I think he stated it in terms—would concede to me the nomination for governor in 1872, and the entire influence of the State administration, which he would then control, and of Senator Clayton, who would then be in Congress, would be given to secure me the nomination and election to the governorship in 1872. He signified that they had an idea that I might become a candidate for the Senate myself in the event that McDonald were out of the way. I responded by telling him that there were no circumstances under which, as far as I then saw or anticipated, I could be made a candidate for the United States Senate at that term of the general assembly, and that I certainly, while I might co-operate to secure the succession to a friend of Senator Clayton, if he were elected, and a vacancy occurred, was not prepared to say I would not at all. I should be willing to see any competent and faithful man as a republican succeed to the place if a vacancy transpired, but that I could never consent to be a party or to be considered accessory in the remotest degree to an effort for the removal of a man from an office to which I believed him lawfully and constitutionally elected, and to deprive him of rights which I thought in honor as well as in law he was legitimately entitled to in the event of Senator Clayton vacating the gubernatorial chair, unless some crime or public offense could be established against him which deprived him of that right.

WASHINGTON, *February* 21, 1872.

Examination continued.

By Mr. BARNES:

Question. If you have anything further on the subjects interrogated on, please continue your statement without a repetition of the question.—Answer. I think I have given the substance of the conversations.

Q. State what you know, if anything, in reference to fraudulent registration in Arkansas prior to the election of 1870.—A. I have no personal knowledge of fraudulent registration. I could only state what I had heard from others, if anything.

Q. Did you at any time make application to W. S. Oliver to issue or obtain fraudulent certificates of registration, or did you have any converstion with said Oliver? and if so, state it in full.—A. I never made any such application or request to Mr. Oliver or any other human being.

Q. I desire to refer you particularly to the testimony to be found in the Mallory report on page 68; I will read it and call your attention to it particularly:

"While the board of review was in session a great pressure was brought to bear on the board to induce them to increase the registration by a large number of persons, prominent among whom were William S. Oliver, George W. McDiarmid, and others, by urging men forward who had already been registered. During the session of the said board of review, on Thursday, I was approached by W. S. Oliver, saying that he came from those parties, who, he gave me to understand, was Brooks, Hodges, and company, saying that they were pleading for mercy. I told him I had no mercy to give. He said, you can have the city. I said, the city is all right. He then said, their ticket must be elected, referring to the Brooks ticket."

I call your attention to that language, and I ask you did you ever have any conversation with Oliver touching the subject-matter contained in the statement of Mr. James V. Fitch, which I have just read?—A. No, sir. So far as relates to myself personally, and so far as my knowledge of the other individuals mentioned extends, it is entirely false, without a shadow of foundation. I never regarded ourselves in a condition to need mercy, even of a political character, supposing the county and district to be strongly republican, as it always had been before, from reconstruction forward.

Q. When did the term "Brindle-tail" originate in Arkansas?—A. I do not know that I could specify the time definitely by date, but some time during the canvass of 1870, I think, originating, primarily, as I remember, with the democratic organ of the State in that county, the "Gazette." It was first given, I believe, to myself personally, signifying, as I understood it at the time, ultra republicanism, personal identification and leadership with the colored vote and population of the State, very much as we were accustomed some years ago to be designated as "black republicans," and subsequently the first designation as "Brindle," and "Old Brindle," and then "tail" was added, "Brindle-tail;" and then it was taken up by the Clayton organ, the "Little Rock Republican," and bandied as an epithet during the canvass in that county, attaching to myself and Captain Hodges and our political associates.

Q. Did it extend beyond the county of Pulaski at that time?—A. I think not, so far as I know, and up to the meeting of the general assembly. I know of no other section where it was accepted by any por-

tion of the republican party, up to the meeting of the general assembly, outside of Pulaski County.

Q. How many days were you in your seat in the senate?—A. My remembrance is that I was excluded on the eighth day, after being sworn in, on the report of the committee.

Q. Were you excluded from your seat as senator from the tenth district before or after the second election of Senator Clayton?—A. Before.

Q. What were the personal relations between Senator Clayton and Lieutenant-Governor Johnson prior to the appointment of Johnson to the position of secretary of state by Clayton?—A. I can only answer as to personal or individual relations. Personally, in the strict sense of the term, I know nothing about the matter; but, as to their individual political relations, I understood them, certainly from the time of my being sworn in by the lieutenant-governor up to the night preceding his resignation as lieutenant-governor, to be bitterly hostile.

Q. What bearing did the subjects of legislation you gave notice of an intention to introduce have upon the election of Senator Clayton and the measures his friends intended to carry out under their administration?—A. I understood the subject embraced, especially in the first bill of which I gave notice, which was to homestead the State lands, especially the swamp-lands, or provide a system of homestead with respect to them, to sustain a very intimate relation to the general schemes of Governor Clayton and his friends, both with respect to his election and the public measures of the general assembly at that session. It had entered very materially into the canvass in that county and was one of the leading measures of a local character which myself and friends advocated, and in which we were very violently opposed by both the democrats and the Clayton men. I understood during the canvass that there was what was called among us there a general levee scheme, projected by Governor Clayton and his friends, by which they intended to absorb, directly and indirectly, to a great extent, the swamp-lands of the State, and by which they expected to provide for the procurement of votes and influence in his election to the United States Senate. I regarded at the time the notice was given and the exclusion ensuing so immediately and apparently in such direct connection with the announcement of that measure, I supposed by that, and by what action was subsequently taken, in the adoption of a three-million levee scheme, based on the swamp-lands of the State, that our understanding of the matter during the canvass had been substantially correct.

Q. What was the quantity of swamp-lands in the State at that time? Can you approximate it?—A. I know at that time there were about two and a half millions of acres confirmed to the State.

Q. State what was the probable value of that land at that time?—A. I think it is worth on an average of 50 cents an acre; that is a very low figure.

Cross-examined by Mr. McCLURE:

Q. Have you any knowledge of an application, and an offer to pay for the same, made by George W. McDiarmid to H. A. Timmins for the fraudulent issue of one thousand fraudulent certificates of registration which were to be used for voters transferred from Clarke County?—A. Nothing whatever.

Q. You never heard of any such thing?—A. I never heard of the subject before.

Q. When Governor Hadley said to you that the political quarrel would

destroy your prospects of pecuniary interest, did you not understand him to allude to the interest held by him and yourself in the Cairo and Fulton Railroad?—A. Not exclusively.

By Mr. NORWOOD:

Q. How long did you occupy a seat in the senate?—A. Eight days, as I remember.

Q. Were you dismissed from the senate, or turned out before the first election of Governor Clayton to the United States Senate?—A. No, sir. I was not admitted until some days after the first election; perhaps it was as much as fifteen or eighteen days after the first election before I was admitted.

Q. You stated yesterday that in an interview with Governor Clayton, before the election, you stated to him that you did not know any particular reasons why you and your friends would not support him for the Senate, did you not?—A. I did in the event of his securing the nomination of the republican caucus.

Q. Then you stated that after that, probably after his first election, you told him that you and your friends had changed your intention. What were the reasons operating upon you for that change of opinion or intention?—A. I think you misapprehended my statement with respect to the second conversation. I stated in the second conversation, and I intended so to state it yesterday, that that had been substantially repeated; that had we been in the legislature and he secured the nomination in a republican caucus, as republicans and as party men, we would in all probability have supported him—I stated that at the second interview—but that we should have opposed his nomination in the caucus with all our influence and with all honorable means.

Q. Then it was your intention from the beginning to oppose him in the caucus, but to support him if he got the nomination in caucus. Do I understand you in that way?—A. Yes, sir; that was our position.

Q. You stated yesterday that there were some means of election employed by Governor Clayton of which you disapproved. State what those means were?—A. One of the instrumentalities which I regarded as employed by him to effect his election was wielding his influence to secure the exclusion of our delegation from seats in the legislature after we were duly and lawfully elected.

Q. What else?—A. I also had information that I deemed reliable——

Mr. MCCLURE. I object to information.

The WITNESS. If the Senator who asks the question decides that he does not wish me to make that answer, I have no objection.

Mr. NORWOOD. (To the witness.) From whom did you derive that information which you considered reliable?—A. In part from the secretary of the senate.

Q. Who was he?—A. Colonel Rufus Archer, of Columbia County.

Q. Was he a supporter of Governor Clayton?—A. I understood him to have been so in the canvass in his county. He was not a member of the general assembly.

Q. What information did you get from him?

Mr. BOWEN. I should like to make one suggestion. I should like to ask how Mr. Archer's delegation stood.

Mr. NORWOOD. (To the witness.) What is the fact about that?

The WITNESS. I understood the Columbia County delegation at the first election to be in favor of Governor Clayton, and my remembrance is that they voted for him; but I cannot testify, because I did not converse with them on the subject.

Q. (By Mr. NORWOOD.) How was it at the second election?—A. My understanding was that they were not favorable to his election at the second canvass.

Q. Now, about Mr. Archer, the secretary, personally; do you say he was in favor of Governor Clayton?—A. I so understood it during the canvass and during the early portion of the session of the general assembly. I understood him to have been in favor of Governor Clayton's election at the first senatorial election, although I had no conversation with him or any member of the delegation on the subject, as far as I remember; that was the understanding I had.

Q. At the time Mr. Archer gave you this information, was he supporting Governor Clayton or opposed to him?—A. I do not think at the time the information was given the governor was before the general assembly in any form. I think it was in the interregnum between his first and second election.

Q. What did you understand to be Mr. Archer's position at the time he communicated this information—as an ally or an enemy?—A. I really did not understand him to be either; I understood his position to be like that of many other republicans there.

Q. What other means can you state, apart from what you heard from Mr. Archer?—A. My answer would have to be to that very much as my answer in respect to Colonel Archer. It was almost entirely information from other parties.

Q. Who were those parties?—A. They were almost entirely friends to Governor Clayton's first canvass for the senatorship, and some of them remain his very warm supporters up to the present time, as far as I know.

Q. Who were they?—A. Judge E. D. Ham, who is an ardent supporter of Governor Clayton at the present time.

Q. At what time did your conversation with him occur?—A. I had various conversations with him. A portion of the conversations were during the session of the general assembly that he was there, and after Senator McDonald returned from here to make a second canvass; and I have had conversations with him since then, at various times.

Q. What did he say during the session of the general assembly?—A. He said he would give his entire influence for Governor Clayton's election against Senator McDonald. He said that to Lieutenant Johnson and myself.

By Senator CLAYTON:

Q. He was Johnson's friend, was he not?—A. Yes, sir.

Q. His particular friend?—A. Yes, sir.

By Mr. NORWOOD:

Q. What were the facts communicated to you?—A. I could not say specially as to the times when he gave me this information that I have particularly in view now in regard to registration, whether at that particular conversation or subsequent to that time. He spoke to me a number of times about those matters, about registration and the very irregular manner in which it was conducted, and especially in the northwest, saying that in the northwestern counties, where the democratic vote was largely in the ascendant, Governor Clayton's registrars registered in everybody that came to the polls, especially in Benton County, without any regard to disfranchisement or anything of the sort.

Q. Do you know anything of the management of your railroads, how bonds were issued to them, and, if so, state whether you know that there was any abuse of power on the part of Governor Clayton, directly

or through his friends, in issuing State aid to any of the roads with a view to accomplishing his election as Senator?—A. I do not think I have any personal information with respect to the issuing of bonds, apart from what I have derived from the records of the State and what I have ascertained of the condition of the roads, and so on. I may have some personal information with reference to the award of State aid, but not the issuing of bonds.

Q. I am referring to the award, not the issuing of bonds. The bonds issued subsequently to the award, I understand. State what you know with reference to the awards.—A. Perhaps it would be just for me to say that I do not know that the answer which I would have to give, with respect to my personal information, would connect directly with Governor Clayton's election. I had conversations with Governor Clayton some two years before, at different times, with respect to the awards of aid. I had knowledge from public notoriety and the public records, and so on, with respect to awards made last winter, and I have knowledge by the statements of railroad men, friends of Governor Clayton, since; but, personally, I cannot testify as having any information.

Q. State what these railroad men told you.

The WITNESS. I was told by a gentleman connected with the Central Arkansas Railroad, the road from Helena to Little Rock, that their award of aid of $15,000 a mile cost them $100,000, paid, as I understood, to those who were intimate associates of Governor Clayton, and figuring for his election and during the session of the general assembly.

Q. (By Mr. NORWOOD.) Who was that gentleman?—A. Judge Bennett, of Phillips County.

Q. How many miles of aid were awarded to them?—A. The distance is 101 miles by the old survey. I think the award was for 100 miles. That is my recollection.

Q. Did he tell you how that $100,000 was applied, to whom, and for whose benefit?—A. I was told it was paid to Judge Bennett, understood to be for the benefit of Governor Clayton and his political friends and associates.

Q. Who is Judge Bennett?—A. He was then circuit judge of the first circuit, and is now associate justice on the supreme bench.

By Mr. BARNES:

Q. Appointed by Governor Clayton?—A. Yes, sir.

By Mr. NORWOOD:

Q. Did he get that award before or after he was appointed on the bench?—A. I could not say.

Q. Did the railroad man tell you he got it before or after he was appointed?—A. I was told afterward.

Q. Do you know anything of an award being made to a company that had laid down but fifteen miles of road, and of that iron having been taken up and laid down on another road, and an award being made to that company?—A. Yes, sir; I have information of that kind, that aid was awarded to the Pine Bluff and New Orleans road, and that some fourteen or fifteen miles of iron was afterward removed and placed on the Ouachita road. The award to the Pine Bluff road was some $1,200,000 railroad aid bonds, and some $300,000 of levee bonds. I have understood that other awards have been made to the road since, but of that I have no information myself, but what I have stated I have information of.

Q. Were the bonds issued in pursuance of the awards made to these respective roads?—A. Yes, sir.

Q. Was one and the same company the owner of both roads, or were the officers of both roads the same, or most of the officers?—A. At present, at least, they are; I do not know as to the condition at the time the awards were made. Commissioner Lewis, as I understand, is president of both roads now, and has been for some months past.

Q. Was Commissioner Lewis president of both roads at that time?—A. I think he was not president of both roads when the greater portion of this aid was awarded.

Q. Was he appointed by Governor Clayton to the office of commissioner of immigration?—A. Yes, sir.

Q. State any fact that you know of, to which your attention has not hitherto been called, which would go to show that Governor Clayton used unlawful or corrupt means by which to acquire a seat in the United States Senate.—A. Of course anything I might say as to what would be lawful would be to some extent a matter of opinion.

Mr. BOWEN. I object to that. I do not want the witness's opinion. I have no objection to the witness stating any fact.

The WITNESS. I will state, then, the fact of the prosecution of Lieutenant-Governor Johnson by a writ of *quo warranto* before the supreme court of the State, or the procurement of that prosecution. That I regard an unlawful and corrupt instrumentality employed by Governor Clayton for the attainment of the office he now holds.

Mr. MORRILL. You state that as one of the facts?

The WITNESS. Yes, sir.

Q. (By Mr. NORWOOD.) State any other fact.—A. I do not know that I have personal knowledge of matters that would clearly come within the scope of the question, beyond what I have just stated.

Q. What about your own exclusion from the senate, or the exclusion of any one else from the senate or the house?

Mr. BOWEN. I ask whether or not the opinion of this witness will stand against the action of the senate and house of representatives of the State of Arkansas.

Mr. BARNES. That is a question further along.

Mr. BOWEN. I enter an objection.

The WITNESS. The fact, as I understand it, is that myself and associates on the ticket there were excluded through Governor Clayton's influence directly.

Q. (By Mr. NORWOOD.) What means of information have you that Governor Clayton's hand was moving in those transactions?—A. I have the statements of various individuals. I never had any personal intercourse with the governor on the subject myself.

Q. Statements of whom?—A. Different individuals.

Q. State who they are and their relations to Governor Clayton.—A. I mentioned yesterday, in my testimony, the name of Senator Sarber and Mr. Myers, a resident of the city of Little Rock. I have remembrance of other facts stated that I do not know that I can command the names of the parties now.

Q. What are the facts?—A. It was stated to me by parties whom I regarded as reliable at the time——

Q. Do you know whether the parties were the supporters of Governor Clayton?—A. I do not think they were—not those that informed me.

Q. Then I do not want that. Is there any other fact?—A. There were facts stated to me by a gentleman elected from the twenty-second district that I regarded substantially corrupt.

Q. Who was he?—A. Mr. Fulton's statements.

Q. Anything else?—A. Various statements, as before. I was told by two or three individuals that they heard Governor Clayton——

Q. State who they were.—A. Mr. Grey and Mr. Mason, and I think Mr. Winfrey. I should not be positive about Mr. Winfrey, but my remembrance is that Mr. Grey and Mr. Mason both told me that——

Mr. BOWEN. I should like to know their positions before their hearsay goes in.

Q. (By Mr. NORWOOD.) What relation did they sustain to Governor Clayton at the time of the conversation?—A. Mr. Grey I understood at that time to be favorable to Governor Clayton's election. That was just preceding the second election.

Q. How about Mason?—A. I do not think he was for him; he voted against him.

Q. Give Grey's statement, then.—A. I am not confident that I can fix the time and place of the conversation with sufficient definiteness to state it under oath. It was spoken of several times substantially; but as to the time and place where the definite statement was made, I do not think I could locate it with Mr. Grey; I think I could with Mr. Mason.

By Mr. MCCLURE:

Q. Was it in the city of Little Rock?—A. Yes, sir.

By Mr. NORWOOD:

Q. Give what Mr. Grey said.—A. I desire to be distinctly understood in respect to that that I cannot locate the time and place with Mr. Grey. The impression on my mind is very distinct that I had at that time, or about that time, from him as well as Mr. Mason, at Little Rock, or on the way from Little Rock to Helena—we came in the boat together last spring when I came to Washington, and I cannot tell with definiteness in respect to that—Mr. Grey gave me information that he heard a conversation between Governor Clayton and Senator White, of Phillips County, the night preceding the second election, somewhere from midnight to two o'clock; I think it was as late as midnight. He mentioned that Governor Clayton and some other gentleman—that I think was Governor Hadley; that is my recollection—proceeded in a carriage to Mr. White's boarding-place, which was, if not the boarding-place of Mr. Grey and Mr. Mason, immediately contiguous; perhaps they boarded at the same place—I am not sure about that, but I know they did board somewhere in one of those families—and they heard Governor Clayton make various offers of position and money to Mr. White.

Q. Who was Mr. White?—A. A colored man, a member of the senate from Phillips County. Mr. White himself was regarded, I might state, at that time as a candidate for the United States Senate. He was being supported by the colored men of both houses, as I understood it, and by some of the white members, and also by outside friends.

Q. This, you say, was the night preceding the second election?—A. Yes, sir; at or about somewhere between midnight and one or two o'clock, as I understood. In addition to proffers of position and money compensation, or its equivalent, he also stated to Mr. White that he had means of securing his election at any rate; that he wanted all the republican votes he could procure, and especially the votes of the colored men; but that if they declined or refused to support him, he could secure his election, and he would do it by securing the votes and support of the democrats, if he had to turn the whole State over to the democracy—I think "to the Ku-Klux," was the remark reported to me.

Q. Is that all you can recollect in reference to facts under the gen-

eral question I propounded?—A. Perhaps I ought to explain that Mr. Grey was a friend of Senator Clayton in case he heard Mr. White's claims were put aside; but I really understood Mr. Grey to prefer Governor Clayton at that time; I know I heard colored men speaking of it by way of objection to Mr. Grey's course at the time. I do not at present recollect anything else that would properly come under the head of the general question put to me. I might, possibly, if my attention were called to a specific point that I do not now remember, call it to mind.

Q. Are you a minister of the gospel?—A. Yes, sir.

By Mr. MORRILL:

Q. As I was not in when your examination began, I ask you what day of the session you took your seat in the senate?—A. I am not quite clear in my remembrance. I was sworn in by the lieutenant-governor. My recollection is, on the 26th day of the session. Then when sworn in on the report of the committee, it was three or four days after; I am not quite confident.

Q. You were sworn in and took your seat on the 26th day of the session; had you been in attendance on the session before?—A. Yes, sir; I was there at the organization of the legislature with my credentials, and claimed the right to be sworn in.

Q. But your seat was contested?—A. I had had notice of contest given by my opponent.

Q. As a matter of fact, you did not take your seat until the 26th day of the session, and were then sworn in by the lieutenant-governor?—A. Yes, sir; and then the action of the senate the next day expunged those proceedings from the journal, and at the request of the lieutenant-governor I refrained after the second session attending for three or four days, my credentials in the mean time having been referred to the committee on elections, after the expiration of which time that committee unanimously reported my credentials regular and conformable to the requirements of the law; and then I was again sworn in by Chief Justice McClure, then associate justice perhaps, but I think he was chief justice.

Q. Then you held your seat how long?—A. For eight days after that.

Q. How was it vacated then?—A. By a report from the committee on elections. On the eighth day the committee brought in a report. No contest in the mean time had been entered before the senate or before the committee, nor had I any notice then that my seat was called in question, and no time was allowed me after the committee reported to make any defense whatever, not even an hour's recess which was asked for.

Q. Were your credentials referred to the committee the first time?—A. No; not when I was sworn in by Lieutenant-Governor Johnson.

Q. But after that?—A. Yes, sir; they were referred to the committee.

Q. The same committee?—A. Yes, sir; the same committee that subsequently reported for my exclusion.

Q. Did that committee report your election on the first reference?—A. Yes, sir.

Q. And afterward a contrary report?—A. They reported the first time that my credentials were regular and conformable to law, and recommended that I be sworn in, concluding their report by saying that in this action they reserved to my opponent the right to make a contest upon facts which he had in a written form laid before the senate, provided he so desired.

Q. That is, the first report was that your case was a *prima-facie* case?—A. Yes, sir.

Q. And they held it for further consideration?—A. I have stated the language; that they retained to my opponent the right to make a contest if he so desired.

Q. And you were then ousted from your seat, were you?—A. Yes, sir; but upon no contest. There was no contest entered.

Q. That was the end of your career in the senate?—A. Yes, sir; that was the end of it.

Q. Was that before the first election of Governor Clayton to the Senate?—A. No, sir; after his first election; I was not admitted until some fifteen or eighteen days after his first election. It was before his second election.

By Mr. McCLURE:

Q. You say you were told something by a gentleman connected with the Central Arkansas road, and that left it in doubt. The impression conveyed to my mind was that this conversation was had with Judge Bennett. I ask if it was; and if not, by whom?—A. No; by "that gentleman," I meant to designate Mr. Bennett as the gentleman to whom the payment was made.

Q. Now give the name of the gentleman with whom you had the conversation.—A. I had conversation with two gentlemen whom I understood to be connected with that road—Colonel William H. Rogers, of Helena, at that time, as I remember, (I do not remember whether he is now or not,) a member of the directory of that road, and also with the president of the road, Colonel Dorsey.

Q. Where were these conversations held?—A. In the city of Memphis in part.

Q. Is there anything you can fix in your mind as establishing to any extent the date of the conversation?—A. I can fix the month, I think; that is to say, it must have been the last of October or first of November last.

Q. In this conversation you had with Mr. Rogers and Mr. Dorsey, did those gentlemen give you to understand, or did they say that Governor Clayton received any portion of that money?—A. No, sir; they stated that the payment was made to Judge Bennett. The understanding I gathered from their remarks was that they judged it to be a company affair on the part of Judge Bennett and Governor Clayton and their associates, whoever they might be. No names were mentioned, so far as I know, with respect to the payment, except Judge Bennett.

Q. Are you positive that either of those gentlemen told you that they paid $100,000?—A. I am.

Q. You are clear on that point?—A. Perfectly.

Q. That the payment of $100,000 was made?—A. One of the gentlemen told me that it cost them $100,000. That was Colonel Rogers. Those were his words, as I remember them. Of course I am liable to the infirmities of humanity in remembrances of that sort; but I am very clear of my remembrance of the precise words, that he told me that it cost them $100,000. My remembrance of what Colonel Dorsey told me is that it cost them $60,000 in cash, making that additional remark, "in cash," by way of explanation. I never asked the gentlemen to explain or harmonize their statements; never had occasion to call the matter up; but my construction, which of course was my own, was that the payment probably had been made in bonds, the aid-bonds, and the amount of those as stated by Colonel Rogers, and that Colonel

Dorsey meant to make the statement respecting the cash value of the bonds, for that was about what they were understood to be worth at that time, I think, sixty cents on the dollar. That was simply my construction of the statement of the two men.

Q. Do you know where Colonel Dorsey is?—A. I have had a letter from him since I have been in town. I think he was then in Europe, perhaps in Switzerland somewhere. I am not positive as to the date of the letter. That is all the information I have with respect to where he is.

Q. Were you at any time connected with that road?—A. No, sir; not with the present organization.

Q. What organization was it that you were connected with?—A. I am not sure whether it was called the Midland. That was the old title. I am not positive as to the title; it was called, perhaps, the Little Rock and Helena road; I think it was.

Q. Are they not building under the same charter, in point of fact?—A. I think they are; that is my understanding.

Q. Were you not at one time director of that road?—A. No, sir.

Q. Were you not an incorporator when the award was made?—A. I was; that was in the winter of 1868–'69.

Q. Can you state whether any portion of the aid which was awarded to them by the board of commissioners was at any time relinquished by the corporators or directors of the road?—A. I can only state on information; I have no personal knowledge.

Q. Did you at any time sign a resignation of State aid?—A. No, sir; I signed a transfer of whatever rights or franchises there were in the first organization, as a corporator or commissioner, to Judge Bennett and Colonel Rogers, in the Metropolitan Hotel there. That was immediately or a very short time before the meeting of the legislature last year.

Q. You do not know what was included in that transfer; whether it carried the assignment of State aid?—A. I did not understand that it did, because the State aid had been forfeited, having lapsed two years. The aid I have spoken of was awarded subsequent to that time, as I understand.

Q. What fact fixes it in your mind that there was a forfeiture of the aid?—A. That is my remembrance; and, as I stated a while ago, I had information that it was relinquished and forfeited under the law; the time had lapsed.

Q. Was there any judicial or other proceeding, that you know of, instituted for forfeiture?—A. Not so far as I know.

Q. Do I understand you, in your testimony in relation to the conversation Mr. Clayton had with Mr. White, that Mr. Grey was present at the conversation?—A. That was my understanding of it.

Q. You understood from Mr. Grey that he was present at the conversation?—A. Not present. I understood from Mr. Grey and Mr. Mason both that they were together, and perhaps Mr. Winfrey, either at Mr. Winfrey's house or in the immediate vicinity. I think that they heard the conversation, but were no portion of the party, that consisting simply of Governor Clayton, Governor Hadley, and Mr. White; but that they were where they heard the conversation. I did not ask them where, but I understood it to be either in or near Mr. Winfrey's house.

Q. When did you have this conversation with Mr. Grey? Can you fix any positive time as to that?—A. I mentioned that the matter was spoken of some two or three times during the remainder of the time I was in Little Rock after the second election of Governor Clayton, and my

recollection is that it was spoken of on the steamer as we came from Duvall's Bluff to Helena in the spring, when I was coming on to Washington. That was the reason I gave at the time why I hesitated to make the statement in respect to Mr. Grey; that while I could have located at least one conversation with the other, I could not specify as to the time and place where such a conversation was had with Mr. Grey. Such statements I heard, I feel very confident, from Mr. Grey some time during the time that intervened from Governor Clayton's second election and my parting from him on the steamer on my way to Washington.

Q. You left for Washington about what time?—A. It must have been in March; it was some days before the adjournment of the general assembly. I do not remember exactly the time. It was after Governor Clayton came on to Washington.

Q. Then it was in the latter half of March or about the 1st of April?—A. Yes, sir.

Q. Were Mr. Mason and Mr. Grey, to whom you allude, colored men?—A. Yes, sir.

By Mr. BARNES:

Q. Was not Grey, after the election of Senator Clayton the second time, appointed clerk of the criminal and circuit court of Phillips County, and does he not now hold those positions?—A. He was appointed clerk of a court or courts there. I suppose that is the title; I do not remember specifically the title of the office; and he still continues to occupy it.

Q. Are not both those offices very important?—A. They are so regarded.

Q. Phillips County is one of the largest counties in the State, is it not?—A. Yes, sir; a very wealthy county.

Q. You were asked by Senator Norwood, in a general question, to give the facts in reference to Governor Clayton obtaining his seat in the Senate by corrupt means, if you knew of any. I ask you whether, in making that statement, you did or did not overlook the fact of his admission to you that he had set on foot the Mallory and other committees, by which you and your colleagues were excluded from the legislature?

Mr. MCCLURE objected to the question.

[That portion of the witness's testimony given yesterday as to the conversation between Clayton and himself at Berry's house, with regard to the Mallory and other legislative committees, was read to the witness.]

Mr. MORRILL. (To the witness.) The question put to you is whether what you have stated in answer to Senator Norwood's question covers what you stated before in what has just been read?

The WITNESS. I do not think it does. I did not repeat what has just been read to me, having made the statement in my testimony before, as it would be in the nature of reiteration; but under the general question of Senator Norwood, I should not hesitate to incorporate that as among the unlawful and corrupt means employed.

By Mr. NORWOOD:

Q. When was that conversation you refer to with Governor Clayton at Lieutenant-Governor Johnson's room?—A. That was some days before his second election.

Q. How long preceding the second election was it?—A. I do not remember in days. It was during that interregnum some time.

By Mr. McCLURE:

Q. Was it before he declined to accept the position publicly?—A. Yes sir; before that.

By Mr. NORWOOD:

Q. In that interview did Judge Bowen make any remark similar to this, that he considered politics all a game?—A. I think he did.

Q. What was the expression he made use of?—A. I do not think I could repeat the words of the judge exactly. They were of that import, that politics ignored substantially the ideas that some of the rest of us entertained of rigid adherence to principles of Christian morality, that politics consisted of a game, very much like a game of chance or something of that kind. I do not remember the precise words. The judge did not say the words "Christian morality" or anything of that kind, but I merely make use of that term to convey the idea that he attempted to express with reference to the admission or non-admission of contestants from the Hot Springs district, and such matters as were under consideration, the judge signifying that such questions were questions which might be adjudicated as mere matters of party policy in connection with public affairs. This conversation with Bowen and Clayton was in the small house in Auditor Berry's yard.

WASHINGTON, *February* 23, 1872.

THOMAS BOLES sworn and examined.

By Mr. BARNES:

Question. Where do you reside?—Answer. At Dardanelle, Yell County, Arkansas.

Q. How long have you resided in the State of Arkansas?—A. I have resided there since the 16th of July, 1837. I was born in that State.

Q. Did you ever hold any Federal positions in the State of Arkansas prior to your election to Congress?—A. I did.

Q. State what they were.—A. I was captain of the Third Arkansas Federal Cavalry, and was afterward elected circuit judge of the fourth judicial district of that State.

Q. You were a practicing attorney at law prior to your election?—A. Yes, sir.

Q. How often have you been elected to Congress?—A. Three times.

Q. In succession?—A. Yes, sir; to the 40th, 41st, and 42d Congresses.

Q. Are you the gentleman who had the contest recently with General Edwards?—A. I am; being the contestant for the seat in the third district of Arkansas.

Q. When were you admitted to your seat after that contest?—A. I was admitted on the 9th day of this month.

Q. Are you acquainted with Senator Powell Clayton?—A. I am.

Q. Are you acquainted with his former secretary of state, Robert J. T. White?—A. Yes, sir.

Q. Were you, or not, nominated by the republican convention in 1870 for Congress?—A. Yes, sir, I was. The republican congressional convention of the third district of Arkansas nominated me in 1870.

Q. Where was that convention held?—A. At Fort Smith, I believe, about the 7th or 8th of September, 1870.

Q. Did you have any opposition in the convention?—A. I had opposition in the canvass made before the convention met, but those opposing

me did not go into the convention. They saw, I suppose, that I was ahead, as I was, and did not come in, but held a convention outside. There was very little, if any, opposition in the convention when it assembled. Those opposing me refused to assemble with the convention at the place called by the congressional committee.

Q. Do you mean to be understood that there were two republican conventions in 1870?—A. There was one, I know, and I have understood that there was another meeting held in the suburbs of the town of Fort Smith that claimed to be a republican convention; at least a candidate was put in the field by them.

Q. Who was he?—A. Judge E. J. Searle.

Q. Who is Judge E. J. Searle?—A. He is now one of the associate justices of the supreme court of the State.

Q. By whom was he appointed, and, if you remember, about what time?—A. He was appointed some time last winter; I am not positive exactly as to what time he was appointed, but I think he was appointed before Governor Clayton accepted the election to the United States Senate, and I think he was appointed by Governor Clayton.

Q. Whom were Governor Clayton and his friends in favor of, and whom did they support prior to the assembling of the convention nominating you?—A. The understanding was, it was notorious all over the country, that he was in favor of the nomination of Judge Searle, and that his friends were. His friends, up through the country, were especially active in Judge Searle's behalf.

Q. Did you, at any time after the election in 1870, have any conversation or conversations with Robert J. T. White, then secretary of state, and also with Senator Clayton, then governor of the State, in reference to your election to the Congress of the United States, and in reference to the returns from the third congressional district, and in reference to the issuing of your certificate of election; and, if so, state what occurred between you in reference to those matters, and also state what was said and done by White and Clayton?—A. Yes, sir; I had several conversations with Secretary White and with Senator Clayton on the subject of the election and the returns made. I, of course, at that time did not ever expect to be called to testify, and I have not got it distinctly in my mind as to what passed at the different times that I met them. On one occasion I called on Secretary White and asked him if the returns were all in. Under the law of our State the count is to be made by the secretary, in the presence of the governor, within thirty days, or sooner if the returns are all in. I called upon Secretary White, and he told me the returns were all in. I wanted to know why they could not be counted, the result ascertained, proclamation made, and the certificate issued. He said that Senator Clayton was not ready yet to make the count. I think, too, he remarked that Governor Clayton said at the time he was not very well and was not ready to make the count. I believe I spoke to Senator Clayton something about the result of the election before this count was made, and he remarked that—I do not exactly know how I put the question to him, but the substance of it was, that I would be all right or be elected—there would have been no question about it had there not been some irregularities in Pulaski County. But the most particular conversation I had with Senator Clayton was after the count was made. I called upon Secretary White for a statement of the vote as it had been cast up and arranged in the presence of Governor Clayton by Secretary White. I had learned prior to that time that the count had been made. I called on Secretary White for a statement of that vote as cast up and arranged by him in the presence of Governor Clayton.

He gave me a certified copy of an abstract of the vote on file in his office. After I had this conversation with Secretary White and after I had gotten these papers, I went to Governor Clayton; I do not know whether this was the second, third, or fourth time. I had several short conversations with him on the subject of my certificate, which I contended I was entitled to, and I remarked to him that the vote was now cast up and arranged in accordance with the law, and that I wanted my certificate; that I was a member of Congress at that time, and my duty called me here; at the same time I believed I was elected to the Forty-second Congress, and my duty to my constituents demanded that I should see that I got my certificate. He remarked that there would have been no doubt—that I would have been all right had it not been for irregularities of elections in Pulaski County, and that he did not wish and was not ready to issue the certificate, and remarked that the legislature would soon be in session, or was in session at the time I had the last conversation with him, and it was likely or that the legislature might institute an inquiry into what he alleged to be irregularities in the election in Pulaski County, and that it might turn out upon their report that in their opinion I would not have a majority of the votes in the district, and that it would place him in somewhat of an awkward shape if he should issue a certificate to me and the legislature should find that it ought to have been issued to my opponent, General Edwards. I insisted that the legislature was not the body that cast up and arranged the vote for members of Congress; that the law of our State made it the duty of the secretary of state to cast up and arrange the votes for members to Congress, and that the secretary of state had complied with his duty, and that, according to the showing, and according to the result as ascertained by the secretary of state, I was elected, and I thought I ought to have my certificate. Then Governor Clayton remarked to me that he guessed I would be all right, that I might go on to Washington. I left Little Rock. I must say I did not know whether I was going to get the certificate or not, and I did not know until the telegraphic dispatches announced that the certificate had been given against me to General Edwards, on the 20th of February following, in 1871.

Q. (By Mr. BARNES.) The abstract or statement given to you by Robert J. T. White, then secretary of state under Governor Clayton, is now on file in the contested-election case of yourself against Edwards, is it not?—A. Yes, sir; in the House Committee of Elections.

Q. Do you remember whether you presented that abstract or statement to Governor Clayton at the time you asked him to issue your certificate?—A. I do not remember, but I do not think I did. I had it in my possession at the time.

Q. You announced to him that you had such a statement?—A. Yes, sir; that the result showed such a result cast up and arranged. I do not think that I showed it to him.

Q. Did Governor Clayton, at that time or at any time during any conversation you had with him, pretend that the returns in the office of the secretary of state did not show that you were elected?—A. No, sir.

Q. Did he or did he not admit the fact that the returns did show that you were elected?—A. I do not know that he did in terms. He was very guarded in his conversation with me. He might have been construed to have admitted it in this way, that he contended that if he should issue a certificate to me, and afterward the legislature should make an investigation and find a different result, it would place him in

an awkward situation. I do not know that he ever admitted to me in terms that the returns showed that I was elected.

Q. Did he or did he not pretend to deny that the returns had been made within the time prescribed by law to the office of the secretary of state?—A. No, he never did.

Q. Did he or did he not pretend to say in any of those conversations that they had not been cast up and arranged pursuant to law by the secretary of state in his presence?—A. I never heard any opinion from him.

Q. Nothing of that sort?—A. No, sir.

Q. Did you or did you not state to him that such was the fact, and upon that demand a certificate as a matter of right?—A. I think I did. I claimed to him that the vote had already been counted, that I had a majority, and that I was entitled to my certificate.

Q. Did he pretend to give or assign any other reason on earth at any of these times than that the legislature might institute an inquiry in reference to the frauds in Pulaski County, and by their action place him in an unpleasant attitude?—A. That was the only reason that ever he spoke of to me that I remember.

Q. At your last interview with him, did he not tell you that you would be all right anyhow; that you would get your certificate?—A. I do not know that he told me that I would get it. He never gave me any direct assurance that I should have it, but rather made remarks that were somewhat encouraging. I thought that there was a chance for me to get it. He never assured me in direct terms that I could have it.

Q. Why were you in doubt as to whether the governor would issue your certificate or not?—A. There were several reasons why I was in doubt. The law prescribed that he should do it within a certain time, and he refused to do it. I knew that he had been unfriendly to my nomination in the first instance; I had reason to believe that he was not very friendly to my being returned; and his hesitating to issue the certificate at the time the law prescribed he should do it, and putting it off in this way, led me to doubt whether I was going to get the certificate or not; and the mere fact of his not saying that he would issue it to me would leave it in doubt, because he hesitated to say that he would do it; in fact, he did not say that he would issue the certificate to me.

Q. Did he in any manner pretend that there was any counter-evidence on file in the office of the secretary of state in reference to that election, at the time you made the application?—A. No; he never spoke about anything on file.

Q. Did White pretend that there was any counter-returns or evidence except that he produced to you?—A. They never mentioned any other than those embraced in this table.

Q. As on file in your contested election case as referred to in your evidence this morning?—A. Yes, sir.

Q. Were these conversations had with Governor Clayton prior or subsequent to his first election to the Senate?—A. They were prior.

Q. All of them?—A. All of them.

Q. Were all the conversations with White prior to that time?—A. Yes, sir. I can name the latest conversation I had with him on the subject, and I think it was prior. The date of his first election will show. The last conversation that I had with him was not later than the 10th of January, 1871.

Q. And your best recollection is that it was prior to his first election to the Senate?—A. I think they were all prior to his first election.

Q. Had there been any unfriendly or unkind feelings between you and

Governor Clayton at any time prior to that, which induced you, in addition to the statements made by him, to believe that he would not issue your certificate?—A. There was nothing personally unfriendly between us that I know of. He of course was favoring his choice for the nomination of the republican candidate in the third district, and I was not his choice.

Q. Did he, or did he not, know that you were then opposed to his election to the Senate and had been all the time?—A. He considered it that way. I had in my canvass kept out of the senatorial fight so far as I could, but the mass of my friends were opposed to his election.

Q. How long before you had the conversations with him in reference to the certificate had he been known and held out by his friends in the State as a candidate for the United States Senate?—A. I do not know how long. There had been several months that it was generally understood through the State that he aspired to that position.

Q. Did he ever, prior to the conversations alluded to by you, converse with you or tell you that he was or would be a candidate for United States Senator?—A. Yes; I had heard him remark that he might be a candidate for United States Senator if things ran to suit him.

Q. What was the usual republican majority in the third congressional district up to November, 1870?—A. The only way we can determine what the majority was was by the elections held. In 1868 I carried the district by 3,967 majority, and that, I supposed, was about the fair majority. In some counties of the district it was alleged that some of the democracy took but little interest in the election, and did not register as strong as they might have done; and our majority is probably not quite that amount if the Democracy had brought out their full strength.

Q. Upon a fair test what was then and is now about the republican majority in the district?—A. I think the republican majority might be set down—we claim it to be not less than 3,000 in the district.

Q. You think it may be set down at about that?—A. Yes, not less than that, according to the registration laws there in operation.

Cross-examined by Mr. BOWEN:

Q. Did you or did you not, soon after the meeting of the United States court at the fall term of 1870, have a conversation with Governor Clayton at Little Rock before the election of 1870?—A. I do not recollect having any conversation with Governor Clayton in the fall of 1870.

Q. And do you not recollect in the summer or the fall when you came to Governor Clayton's residence in Little Rock and told him that you had all concluded up there to support him for the United States Senate, or words to that effect?—A. I think he is mistaken about the time.

Q. State when the time was.—A. In the fall of 1869 I had a talk with Governor Clayton, and at that time our friends in the western part of the State, especially the republican party, were considerably alarmed. They thought from the speech he had made in October prior to that time, that he was going to sell out to the democracy, and in order to keep him from doing so they wished to hold out inducements to him to keep him in the republican traces.

Q. What was in that speech that induced them to believe that?—A. I do not know. The speech is matter of record.

Q. I call on you merely for knowledge.

Mr. BARNES. If he calls for any we have a right to all of it.

The CHAIRMAN. Certainly.

Mr. BOWEN. We have no objection to having it all, but we want simply the general idea now.

The WITNESS. The general, leading idea of it, as I understood, was the advanced position he took with regard to universal suffrage in the State. He took that position in advance of the republican party at that time.

Q. (By Mr. BOWEN.) Was or was not that the principal objection urged against him by leading republican speakers in the campaign of 1870?

Mr. BARNES. I object to that. It will open the field a little too wide.

Mr. BOWEN. I will not press it if the committee have any doubt about it.

The CHAIRMAN. I do not think such testimony would be proper.

Q. (By Mr. BOWEN.) Did you give the assurance to Governor Clayton of your support at that time?—A. No, sir. What I said to Governor Clayton at that time was that I had no objection to urge against him for United States Senator; that I supposed Senator McDonald would be an aspirant; that both he and McDonald were personal friends of mine; that I expected to be an aspirant for re-election to Congress, and that I wanted to go along with my fight, I wanted to control all the friends I could, and I would like to have the support of both, and so far as I knew Senator McDonald and his friends were favorable to my re-election and I did not want to pick up a club to hit one friend to please another. That was about the sum and substance of it. I assured him that I did not expect to throw anything in his way.

Q. Did you not use language to this effect in that conversation, that you had had a caucus up there, meaning about your home, at Fort Smith or Van Buren, in 1869; and that you gentlemen there had concluded to support Clayton for the Senate?—A. I can state that some of my friends did have a talk, and, as I before remarked, the subject of the question as to whether Governor Clayton was going, as they termed it, to Senterize the State and sell out, came up; and it was agreed that it would be better to elect him to the United States Senate; to accede, as they considered it, to his demands to go to the United States Senate by the republican party, than to let him turn the State over to the democracy and go there anyway.

Q. Did you tell him what I have asked you?—A. I told him that was the talk among our friends there.

Q. Do you undertake to say that you told him that rather than have him Senterize the State they would go for him for Senator?—A. I do not know whether I would be safe in saying that they pledged themselves to do so. I do not think I did; but I think I gave him to understand that if he would go along right, stick to the republican party, administer the government right, and please the party, he would have a fair show.

Q. You say you were elected judge in 1864?—A. Yes, sir.

Q. Did not Searle withdraw afterward in your favor?—A. He withdrew.

Q. Do you not know whether it was in your favor or not?—A. In his address to the people he withdrew from the contest and urged them to support the republican nominee.

Q. And that you considered yourself?—A. Yes, sir; I considered myself the republican nominee.

Q. Did or did not Judge Searle and Governor Hadley both canvass your district in your behalf after the withdrawal of Judge Searle?

The WITNESS. I can state that I did not meet them at all, but from hearsay they did canvass the district in behalf of the republican nominee. I am told that they did.

Q. (By Mr. BOWEN.) Did you, or did you not, get the full republican vote of the counties which were favorable to Judge Searle at the time of his nomination, and which were favorable to the election of Governor Clayton and his friends? Did you not get the same vote that they did generally?—A. I got the full vote of the counties where Judge Searle claimed to have a large number of friends.

Q. Were not those counties, a great many of them, friendly to Governor Clayton's election?—A. I believe the republican nominees of one district there were.

Q. What district was that?—A. I do not remember the number, but Clark, Pike, and Sevier counties.

Q. Did you not run ahead of the republican nominees in Clark County?—A. I believe I did.

Q. That was the county in which Judge Searle resided, was it not?—A. Yes, sir.

Q. At the time of your conversation with Governor Clayton in regard to the issuance of your certificate, was, or was there not, anything said as to whether there were any counter-evidences on file in regard to the Pulaski County election?—A. I do not think there was anything mentioned on the subject. I do not remember anything of the kind.

Q. Fix the time of the last conversation you had with him, as near as you can?—A. I think it was about the 9th or 10th of January.

Q. How long was it before you started for Washington?—A. It was not more than three days before I started; I think it was not more than a day or two.

Q. Do you recollect when you started?—A. I cannot only by these papers I got at the time. I got this statement of votes from Secretary White, on the 10th day of January, 1871.

Q. You must have left after that?—A. I left after that, but I think I had the last conversation with Governor Clayton on the subject on the same day.

Q. That you left?—A. The same day that I got these papers. If it was not that day, it was the day following.

Q. Was it on the day of the senatorial election, or not, that you had this conversation?—A. I cannot recollect. It was about that time. I do not recollect what day the senatorial election was held. The records will show that, I suppose.

Q. Where was the last conversation had with Governor Clayton?—A. In the governor's office.

Q. Who was present?—A. I do not recollect. When we commenced talking somebody came in and interrupted us.

Q. The last conversation I refer to.—A. I do not know whether there was anybody present at the last conversation. I do not think anybody was present during the conversation. There might have been persons stepping in and out of the office; I think, probably, there were persons who passed in and out.

Q. Was or was not Mr. Barton, the private secretary of Governor Clayton, present at that conversation?—A. He was not present at a part of the conversation.

Q. Was he not at his desk?—A. I do not recollect his being present. I cannot recollect it. I recollect there were some of the clerks, or it may be some of the secretaries, passing in and out during the time we had our last conversation. It may possibly be that Mr. Barton might have been there, at his desk, part of the time.

Q. You judge that you got that statement on the 10th of January, from the date of the statement?—A. Yes, sir.

WASHINGTON, *February* 24, 1872.

W. H. ROGERS sworn and examined.

By the CHAIRMAN:

Q. Where do you reside?—A. In Helena, Arkansas.

Q. How long have you resided there?—A. Six years last October.

Q. Had you resided in the State prior to that time?—A. No, sir; I resided in the State of New York.

Q. Were you a member of the general assembly in 1870?—A. I was a senator for 1868, I think. It was an unexpired term of Captain Thomas Todd's. I was a member of the first senate, but it was for an unexpired term.

Q. You were not a member of the senate or house when Senator Clayton was elected to the United States Senate?—A. No, sir.

Q. Were you at Little Rock at that time?—A. No, sir; I was there two days before the general assembly convened and left two days before.

By Mr. BOWEN:

Q. Are you acquainted with the Rev. Joseph Brooks, now of Little Rock, formerly of Helena?—A. Very well indeed.

Q. Did you ever have a conversation with him in regard to the award of State aid to the Arkansas Central Railroad?—A. You know the name has been changed since we got the first award.

Q. I am speaking of the award to Colonel Dorsey's road.—A. Yes, sir.

Q. State what you told him in that conversation.—A. I do not know that I could state it. Do you want me to state the conversation I had with him about the procuring of the award for the seventy miles that Colonel Dorsey got?

Q. Yes, sir.—A. As near as I can remember, it was when I was visiting Little Rock. There had been an award made of seventy miles State aid, at $15,000 a mile, and I told him that Judge Bennett had interested himself in procuring this award, and that Colonel Dorsey had agreed to pay Judge Bennett $70,000; that is, a thousand dollars a mile; that Bennett had alleged that he had a great deal of influence, and that he would get that award. I am a director in the road. In his representations to Colonel Dorsey, he said that the Cairo and Fulton Railroad had surrendered or were about to surrender, I will not be positive which; at all events, I did not know at that time positively that they had; that he should have to use this, and that no part of it was coming to him by contract, and if he got anything it would be a gratuity, Bennett said. Bennett did not state who it was to be used with, but in those general, indefinite terms, he said it would have to be used to procure the award. The impression, I think, he wanted to convey was that some of the persons connected with the Cairo and Fulton road would have a part of it, and that other persons would have a part. My belief, however, was at the time that nobody had a part of it but himself. I was very anxious and very much interested in getting the award, because I considered it quite essential to the success of the road that we should have it. I do not know that anything more occurred, except that I very likely expressed my opinion to Mr. Brooks in reference to Judge Bennett. I presume I did, although I am not positive. I know that I have done so.

Q. I will ask you whether or not you did, in your conversation with Mr. Brooks, give him to understand that the payment made to Judge Bennett for the purpose of procuring that award was, either directly or indirectly, any part of it or the whole of it, for the benefit of Governor

Clayton?—A. I do not think I gave him to understand any such thing as that. I did not think so at the time. I supposed the whole of it was going to Judge Bennett. I have no hesitation in stating that. I thought so then and am pretty well convinced. I will state, however, that he did not get the $70,000.

Q. State how it came that he did not get the $70,000.—A. I can hardly remember the time when the award was made, nor distinctly remember when Colonel Dorsey got the first bonds. I only remember it was a very warm, pleasant day. I was coming into Little Rock from Helena, and as I got off the cars to go down to the ferry-boat, I noticed the steamboat was going down the Arkansas River. I wanted to see Colonel Dorsey; it was a part of my mission to see him; and when I got over there I heard that Colonel Dorsey and Judge Bennett had gone down the river, and I afterwards, during the time I visited there, heard that he got $150,000 of bonds. After I returned to Helena, Colonel Dorsey informed me that he had paid Judge Bennett $35,000 and the judge insisted on the whole $70,000 being paid, but that he represented to Judge Bennett that the necessities of the road were such that they could not pay him the other half then. Whether the judge was satisfied with it or not, he only got the $35,000.

Q. If you know of any action which Governor Clayton took which tended to stop the payment of that $35,000, state what it was.—A. I am not sure that Governor Clayton was in the State. He was not at that time, I think.

Q. Who was acting governor at the time the bonds were issued?—A. I think Hadley, but I will not be positive. I do not remember the one it was, but the record will show when the bonds were issued, and that will tell.

Q. Do you know, or do you not, whether Governor Clayton repudiated the whole affair, so far as Bennett was concerned, and whether or not he had anything to do with the stopping of that additional payment?—A. It is well known to you all here, at all events, that I was very much interested in the success of the road. I was the first president of it, and it was a scheme that, if carried out, would increase the value of property that I owned, and I tried in every way to get the thing in shape, to get parties to take hold of it and build it. I knew nothing about constructing a railroad myself. In the mean time, after the issue of the $35,000—some time after—I got a letter from Colonel Dorsey, who was in New York; and I may as well say here, however, that I had expressed my indignation at the fact that Bennett, who was really as much interested in the success of the road as myself, should have take so much of it in a thing in which he was still a director, and I had had a talk with Colonel Dorsey and Colonel Gregg, the contractor. Colonel Dorsey wrote to me from New York that he should not pay the $35,000; that Bennett had got all he was going to get; and that he was going to take measures at the next election of directors to see that Bennett was not elected.

Q. State Governor Clayton's repudiation of the thing, if you know anything about it.—A. Governor Clayton was in New York also at the time. He came to Helena, and I was still anxious to prevent Bennett's getting the remaining $35,000, and I saw Governor Clayton. I told him then that I thought Bennett was getting a great deal more than a man ought under any circumstances, and particularly situated as he was, and the governor was very indignant that Bennett should have taken, or even asked for, any of the $35,000. He told me that he did not know anything about it; that he did not know anything about the

$35,000; and I think also at the same time we had quite a long conversation. I think he was at my house sitting on my front steps, on a warm day, and I think he also said (of course we were talking over the various Arkansas troubles) that, whatever they might accuse him of, he would endeavor to keep that railroad question straight.

Q. Was there anything in that letter from Colonel Dorsey in regard to Senator Clayton?—A. In that letter he told me that he had had a talk with Clayton—Dorsey himself had—and that Bennett would not get any more of that $35,000.

Q. Did he say what the result of his interview with Clayton was on the subject?—A. Not directly. He told me that he had had a talk with Clayton, and I do not remember, but I hardly think that he did state in words or the idea; because I suppose it would be hardly in Governor Clayton's power or anybody else's to prevent Dorsey paying Bennett the $35,000 if he wanted to; but he was satisfied that instead of there being any division of the $70,000, the $35,000 of which he had got, there was no division.

Q. Then it was for Bennett's exclusive benefit?—A. Yes, sir; and I afterward heard that the whole $35,000 had been deposited in Memphis; but it was one of those town rumors; I do not know how true it is.

Q. State whether or not you were connected with a railroad from Helena to Little Rock, known as the Helena and Little Rock Railroad Company?—A. I was one of the incorporators, and was elected the first president of the road.

Q. Who were the other incorporators and stockholders in that road?—A. John E. Bennett, Joseph Brooks, myself, Wicks, Governor Hadley, and a Mr. Evans. I think those are all.

Q. State now to the committee whether or not you, in connection with the other directors and stockholders and incorporators, did or did not relinquish or resign your award of State aid in that company at one time, and if so, state the circumstances and all about the matter.—A. We got the award of the road from the commissioners, I think, on the 12th day of March.

Q. What year?—A. I cannot remember. I remember that was the date; I feel positive that was the date. We had under the law two years to perform certain acts that were necessary to give us full possession of the award.

Q. You mean full right to draw bonds?—A. Yes, sir; and also (I think that was my impression at the time) to give us full possession of it so that it could not be alienated. As I said before, I had taken a great deal of pains; I had spent some little money in the way of traveling expenses in various parts of the country, and had spent a good deal of time in running about to try to find somebody to take that State aid that we had on the road and take and build it, and such other advantages as we would give them in the way of letting them have first-mortgage bonds and land subscription and money subscription; but I could find nobody and did find nobody that I could induce to take hold of the road at all. I knew nothing about railroad business. I wanted to find somebody to take these bonds and build the road, with such other franchises and grants as we could procure. Some time in the month of December preceding the 12th of March in which our grant expired I received a telegram from Judge Bowen, calling me over to Little Rock to see if we could not make some arrangements about the award that belonged to the Helena and Little Rock road. I went over to Little Rock and I called on Mr. Brooks there, called on Judge Bowen; had a talk with Mr. Brooks, and I am not certain whether with others or not.

Q. You mean Joseph Brooks?—A. Yes, sir; there is no other Brooks there. I told Mr. Brooks that I had spent some little money; that I had expended a good deal of time, and had really done the best that I knew how in order to bring about the construction of that road; and that now, in a very short time, all the rights and franchises that we had under it were going to expire; but that Judge Bowen, who was president of the Mississippi, Ouachita and Red River road was about concluding a contract with somebody for the construction of that road, and it was quite important and valuable to him to have an award of State aid. At this time there was no other unawarded; in other words, all that could be awarded was apportioned out to the various roads in the State. No road could get any until somebody surrendered or violated. I confess that I was still anxious to see if I could not get something out of it in some shape to remunerate me for the money and time I had expended. I had a talk with Judge Bowen, and he made me an offer of $25,000 of State bonds if I would surrender the road. Judge Bennett, by the way, was over at Little Rock with him. I am not certain but that he went with me; he was there. I called upon Mr. Brooks and told him what offer had been made, and he said to me that Judge Bowen was in a tight place; that he wanted that award, and that I had better ask $50,000 or even $100,000 for it, and that Bowen would give it. In the mean time I had talked with Bennett. Bennett had told me that whatever I said I would do, he would stand up to. If I said $50,000 he would insist upon $50,000 too. He was one of the directors, and this resignation of award had to be signed by all the directors, and Judge Bennett was, I think, a director in the Ouachita road, and would derive a part of the benefit from it. I talked with Mr. Brooks, and we finally agreed among ourselves that if Bowen would give me $50,000, or would give $50,000 for the award, we would surrender it, knowing that we could not make anything out of it anyway between December and March; there was not a lick struck, nor a thing done; it was as it had been for the whole time. I finally told Judge Bowen that I would surrender, and see that the others did also, the award to the road, and we so surrendered the award. Judge Bowen could not give me any paper because he had to go to New York, or there was some delay about it. I inclosed the agreement in a sealed envelope and left it with Judge Warwick, with the direction on the outside to deliver the within paper to T. M. Bowen, president of the Mississippi, Ouachita and Red River road, upon his surrendering to Judge Warwick an acceptance for $50,000. Some time after that, I got a letter from Judge Warwick, in which he told me that he had done what I had asked, and inclosed an order signed John C. Frémont, and accepted by T. M. Bowen.

Q. State, now, if Mr. Brooks joined in that relinquishment or resignation; and if so, the circumstances?—A. Mr. Brooks was at that time United States assessor, and was conducting a paper; he was very busy, and he gave to me a power of attorney to sign this release, so that I signed the release for myself and for Joseph Brooks, with the power of attorney attached, and I think it went on to the surrender.

Q. At the time that authority was given you to relinquish, what was the understanding about who was to get that $50,000?—A. It was understood as between Mr. Brooks and myself that I should give him one-half of the $50,000.

Q. That was the time he authorized you to relinquish the award?—A. That was before we had signed it at all, before the relinquishment was made. Judge Bowen had agreed to give me the $50,000.

Q. I understand you to say that when that was understood, Mr Brooks gave you the power of attorney?—A. Yes, sir.

Q. With the understanding that you were to get $50,000 and he was to have half of it?—A. That was the understanding between Mr. Brooks and myself. I will state, however, that I have not got it.

Q. When you get it, will you give Mr. Brooks half of it?—A. I hope I shall be honest enough to carry out my agreement. I do not know how I shall feel with $50,000 in my pocket.

Q. I will ask you whether, at the time this relinquishment was made, your company had forfeited its right to that State aid?—A. Not quite, but nearly. He wanted relinquishment made in December. We should have forfeited the following March, and in the mean time we could not make the ten miles; it was impossible. I think it was the 29th of December.

Q. In speaking of the $70,000 that Judge Bennett was to get, did you understand that that was in money, or in bonds?—A. It was to be in bonds, and he got $35,000 of the first issue that we got on what was then the Central.

Q. You say that you had an impression from Judge Bennett when you had to pay for this last award to him, that a part of it was to be used to pay for the relinquishment by the Cairo and Fulton Railroad?—A. He gave that impression in his conversation, but indefinitely. He, of course, could hardly say in person, but he endeavored to carry that idea to Colonel Dorsey that he had got to use this, and asserted that he was not to have any of it; if he did it was a gratuity. He endeavored to make that impression. The idea was, he had got to use this.

Q. What was your impression?—A. My impression was that if he got hold of it there would not anybody get any.

Q Who were the parties interested in the Cairo and Fulton Railroad?—A. I do not know.

Q. Do you know whether Joseph Brooks was interested or not?—A. I do not.

Cross-examined by Mr. BARNES:

Q. Did you not have several conversations with Colonel Joseph Brooks in reference to the amount of money your road, or your company, were compelled to pay to obtain the State aid?—A. I had many conversations with Mr. Brooks.

Q. You had other conversations? The conversation you have been detailing was in the city of Little Rock, as I understand you?—A. Mr. Brooks and myself are warm personal friends, and I presume that we hardly ever met that I did not have more or less to say about Bennett's gouging us out of that thing. He came from my county, and when he comes into the county he is always welcome at my house.

Q. You regard him as a gentleman of honor, and a man that you are willing to associate with and reveal your secrets to?—A. I have a warm personal friendship with Mr. Brooks; I have the warmest feeling toward him.

Q. Do you pretend to remember with accuracy the many conversations you have had with Colonel Brooks in reference to the sum required or gouged from you, I believe as you said, by Bennett?—A. I think that is the proper term; it is better than grand larceny—not so offensive.

Q. I will ask you if you and Colonel Dorsey did not express your utter indignation and abhorrence at the outrages perpetrated upon you and your company in reference to that matter?—A. Yes, sir; I talked with Mr. Brooks about that, expressed my disapprobation at least.

Q. You say that Bennett pretended it was necessary that he should have this sum paid to him in order to obtain the State aid?—A. The award? Yes, sir; he did.

Q. Who were the commissioners to grant State aid at that time?—A. The governor, the secretary of state, and I think the State treasurer.

Q. I will ask you if it is not the commissioner of public works instead of the State treasurer?—A. The commissioner of public works does have something to do with it.

Q. What is his name?—A. Benjamin Thomas.

Q. The appointee of Governor Clayton?—A. Yes, sir. He is from my county.

Q. Did Judge Bennett say that he was compelled to use that money to procure that State aid?—A. Not in direct terms, but he endeavored, as I stated before, to carry that idea that he had to use this; and I stated that he said if he got anything, it was a gratuity.

Q. You mean to be understood, I suppose, that Governor Clayton was not present at that conversation?—A. No, sir; oh, no.

Q. Was Bennett present at the conversation you have detailed between you and Governor Clayton after this money was extorted from you?—A. No, sir; oh, no. This conversation that I had with Senator Clayton was at my house in Helena, and at that time Bennett was at Little Rock; he was not in town.

Q. Was Bennett then a circuit or a supreme judge of the State?—A. Supreme judge.

Q. How long after he had been appointed by Governor Clayton did he extort this amount from you?—A. I do not remember when he was made judge; that is a matter of record. I do not remember when he got the money, only that I was over at Little Rock, and it was pleasant weather. The month I could not tell; it might have been May, June, or July.

Q. Your recollection is by no means definite?—A. Not as to the time; only that it did take place, and that I got into Little Rock the very day that he went down on the boat.

Q. Do you not remember that it was paid or extorted before Governor Clayton left the executive position?—A. I do not remember. I only judge that it must have been while Hadley was acting governor, yet I cannot tell the month.

Q. You may possibly be mistaken as to that?—A. It was the very time the award was made, anyway, and Colonel Dorsey delivered Bennett the bonds, going down the river within three days—$35,000.

Q. With the understanding that $70,000 was to be paid?—A. With the understanding that $35,000 more was to come. Bennett wanted the whole amount then.

Q. Did Bennett make any statements then what he was to do with them; and, if so, give the statement in full?—A. I was not on the steamboat; I do not know from actual sight; it is one of those things not proven. Dorsey told me that he did.

Q. What did Dorsey tell you? Tell everything that Dorsey said in reference to these whole transactions, and who were connected with them, in his opinion or knowledge?—A. The difficulty is, as you well know, to call up a conversation so long ago. Dorsey told me when I got back from Little Rock, a few days after he and Bennett had gone down the river and returned to Helena, that he had paid Bennett $35,000; that Bennett insisted, and urged, and demanded that he should have the whole $70,000, but that he had told Bennett that they could not pay him the other $35,000 now; that they were going to hypothecate

or sell the bonds in order to raise money to go on and finish the road; that this was the first award they had, and that he would pay him the other $35,000 out of some other award, and, of course, Bennett had to be satisfied; he could not enforce it anyway. This conversation with Dorsey I had in Helena. Shortly after that Dorsey came on east to borrow money or to sell those bonds, and he was at the east some time, and while there he wrote me the letter that he should not pay Bennett any more.

Q. Give his reasons why, and all he said about it.—A. As near as I can remember, the letter ran to the effect that Bennett was playing Shylock in the thing; that he was getting all this, and that he should not give him any more; and that he should see that at the next election Bennett was not to be elected a director.

Q. Did not Dorsey tell you that he had talked with Senator Clayton in reference to this matter, and that Clayton said that Bennett was not dividing with them, or something to that effect?—A. It is possible that there might have been that there; that he had divided in such a thing.

Q. Did not Dorsey tell you the fact, either in words or in substance, that he had had a talk with Clayton, after the payment of this $35,000 to Bennett, had called Clayton's attention to it, and Clayton said that Bennett was not playing fair—was not dividing with him? State all he said about that.—A. He wrote to me that he had met Clayton in New York. I knew that Clayton was in New York at the time; that he had had a talk with Clayton, and that he should not give any more of this money to Bennett at all; that Bennett was having the whole of it—the thing that I had told them all along. He said that. Now I want to be very careful. It is more from deduction. The idea that I have now, and as I derived at that time, was, that Dorsey had had a talk with Clayton; that Bennett had not divided this $35,000, or any part of it, and that the governor was very indignant about it that he should have taken the $35,000, and that he should—I am not certain that he did not say. I have it through Dorsey, or through Clayton, that Clayton said he should make him disgorge that $35,000. I do not know whether Dorsey told me that or not, I do not now remember; but at all events that Bennett was not dividing that money to anybody. He had got hold of it—the thing that I told Dorsey all along.

Q. Is it not your best recollection that Dorsey said, in that conversation or in some other conversation in reference to this matter, that Clayton's objection to the transaction was that Bennett had not divided with him and others; did not Dorsey make that statement to you?—A. I cannot say that I could say that. I have heard it alleged against Bennett ——

Q. I am not talking about what——A. Nor did Dorsey say that to me.

Q. Did not Dorsey tell you in those conversations that Clayton, or somebody else, was to have a part of the balance of the deferred $35,000?—A. No, sir; I have before stated that Dorsey said he would not give him the $35,000.

Q. You perhaps do not comprehend the question. The question I propose to propound is this: To whom did Dorsey say he would pay the other $35,000? Who was to have it?—A. He said he would not pay it to anybody. He only agreed to pay it to Bennett, and never would give it to him.

Q. Do you really know what Bennett actually did with the $35,000 in bonds?—A. No, sir; I do not.

Q. Have you any means of ascertaining?—A. I have no knowledge;

I simply have a belief, founded upon the man. I as fully believe as I do in my Maker, that Bennett never gave another man a dollar. That is a mere belief, a strong belief in this case. Whether he agreed to do so I do not know.

Q. You do not pretend to say that he did not agree to do so?—A. I do not pretend to say anything about that. I merely say that I do not believe he did. I think he would agree to do anything, almost, if you would give him money.

Q. Was he not then, and had he not been before that time, the very special and intimate friend and confidant of Governor Clayton?—A. I supposed him to be a very warm friend of Governor Clayton. I will say that I always supposed he was.

Q. Is it not true that Governor Clayton, before he appointed Bennett to the supreme bench, knew all about his personal history?—A. I could not say that.

Q. What is your opinion upon that subject?—A. I have no opinion. I really have not. I could not say that of any man, that he knew his personal history. I do not know that he knows it even now.

Q. Do you know why Governor Clayton appointed him to the supreme bench; upon what considerations?—A. That is a very delicate question, and the Senator is here himself. I could only say what I supposed his opinion was, but I should instantly assert that my opinion and that of the governor's did not agree at all. I should never have appointed him. I suppose the governor thought him to be a fit man. I think very likely the governor himself must regret it now. If he did not know about his personal history before, he has known about his personal habits since. I do not wish the examiners to understand that he is a disreputable man. He is a man of great natural ability, a little too much in some things. He has loose and crude notions of financial integrity, to put it as mild as is becoming.

Q. Was he not known and generally understood, during Clayton's canvass for the Senate, to be one of his chief managers in procuring his election?—A. I will say that we considered him in Phillips County, I guess, to have more influence with Governor Clayton than any man in the eastern part of the State.

Q. Was he so known and understood to have more influence with Governor Clayton than any other man in the eastern part of the State when he demanded this $70,000 in bonds from your company for his influence?—A. I hardly know, for I think about that time there was a sort of breaking-up of things. I was not at Little Rock when it was done at all. I knew myself, I was satisfied that I could not have any influence with Governor Clayton to get the award; I was satisfied I could not. I think the governor and I at that time were not good friends, perhaps not as cordial as we had been, owing to one of those coolnesses that arise from local consideration.

Q. Did not Bennett, at the time this transaction occurred, inform you or give you to understand, or Dorsey, that it was necessary that he should have this $70,000 in bonds, in order to operate upon Senator Clayton and Senator Hadley, and Thomas, the commissioner of public works?—A. He gave us to understand that it was necessary to have these bonds; that he was going to use them, in order to bring about the award. He did not mention that it was the commissioner, or the governor, or any other man. He is a man that is too shrewd to commit himself in any such a way as that. However grasping his ambition, he covers his tracks very well, and I suppose you could see the impropriety of a man saying anything of that kind. I have no means of knowing;

he did not say for whom he wanted it, but that he did want it, and if he got any part of it, it was a gratuity.

Q. Now I come back to the question. Tell the committee, if you know, why or how Governor Clayton came to appoint him justice of the supreme court? If you have any knowledge, give it.—A. I have no knowledge excepting observation. I take it for granted that Governor Clayton still entertains, as I stated before, a great regard for Judge Bennett. He was considered to be, by everybody in the eastern part of the State, the most influential man with Governor Clayton that we had, and I suppose that out of that grew this. I have no knowledge whatever. I was in Little Rock but twice during the whole session, and things were very calm at the time I was there. I never was there when there was any of the excitement that there was there. I left two days before the legislature convened, and I was over twice during the term.

Q. What influence did Judge Thomas M. Bowen then have with Senator Clayton, and what were the personal relations between them?—A. I suppose that they were as friendly as Clayton was with Bennett, and if I were to give my belief I should say that probably before Governor Clayton appointed Bennett he had a talk with Bowen. I never heard the first word, but I should have thought it.

Q. Did Bennett take Bowen's position upon the bench?—A. I think that Bowen resigned and Bennett was appointed. I do not know that he did. I have never spoken of that to a living soul.

Q. What position did Bennett hold prior to his promotion to the supreme bench?—A. He was a captain in the Regular Army.

Q. I mean in the State.—A. He was a circuit judge.

Q. Who appointed him to that position?—A. The governor.

Q. How long had he been in the State of Arkansas prior to his appointment to the supreme bench?—A. He was connected with the Army, and I do not know how long.

Q. Had he ever lived in the State prior to the war?—A. No, sir.

Q. Where did he come from?—A. He had lived in Morrison, Illinois.

Q. Do you know how it happened that such peculiar intimacy existed or was created between him and Senator Clayton?—A. Their wives were on very social terms and visited with each other. I suppose that helped some. Really I have no opinion as to how originally the intimacy sprang up. I will say, however, that I had a very good opinion of Judge Bennett until I discovered these things. I used to know him when he was a lad, when a few years younger than myself.

Q. Was he a man of any distinction as a lawyer before he was appointed to his position upon the bench of the circuit judge?—A. No, sir; I think he was admitted a month before he was appointed. I have been so informed by John G. Price, that he was admitted before Judge Clendenning, of Little Rock.

Q. How long did he occupy his position upon the bench of the circuit court before he was promoted to the supreme bench?—A. I could not tell that.

Q. To the best of your recollection?—A. He was appointed very soon after reconstruction tookplace. He was appointed with all the other State officers at the time. He was made judge of the supreme court a year ago this present winter some time.

Q. Had he ever practiced law at all in the State of Illinois?—A. I have been informed that he never practiced.

Q. You are satisfied that he was first admitted to the bar in Arkan-

sas?—A. I have that from John G. Price. I have it also from a stra ger to me; a gentleman at Hot Springs told me he was a hotel-keep

Q. I will ask you if you and Dorsey did not consider that you we compelled to agree to the demands of Bennett in giving or agreeing give the $70,000 to obtain State aid to your road?—A. Yes, sir; I w say we thought we could not get it without; and although it m seem to be a large sum, it was only one-fifteenth of what we receiv anyway, and with the stock, the bonds of the road, which were to $16,000 a mile, with which the State had nothing to do, only the sto holders, it was thought we could afford to pay it.

Q. There was too much at stake, then?—A. Yes, sir; like a man pa ing extortionate, usurious interest.

Q. Has Judge Bowen ever paid you the $50,000 he agreed to give y for the franchises of the road?—A. He has not. I have got the acce ance in my pocket.

Q. From whom?—A. The order is signed John C. Frémont, accept by T. M. Bowen.

Q. Please make, as part of your deposition, a copy of that instrume and indorsements.—A. It is as follows:

"No. 1.

"$50,000. CONTRACTOR'S OFFICE,
"M., O. & R. R. RAILROAD,
"*December* 31, 1869.

"TO THOMAS M. BOWEN,
"*President of the Mississippi, Ouachita and Red River Railro Company:*

"SIR: In accordance with the stipulations of the contract entered in between Samuel S. Stephens and myself on the 31st day of Decemb A. D. 1869, for the sale and assignment of a contract for the constru tion and equipment of the Mississippi, Ouachita and Red River Ra road, dated December 15, A. D. 1869, pay to the said Samuel S. S phens, or bearer, fifty thousand dollars, ($50,000,) in second-mortga bonds of the State of Arkansas, at his option, out of the amoun thereof to be received by or advanced to us under said contract f construction and equipment upon completion of the first section of t miles of said railroad; and this shall be your receipt therefor.

"JOHN C. FRÉMONT,
"*Contractor.*"

Indorsed: "Accepted. Thomas M. Bowen, president M., O. & R. Railroad Company."

Q. I understand you to state that Judge Bowen has paid you no pa of the $50,000 named in that obligation, nor has any other person? A. I got $10,000 of this.

Q. In what way and from whom?—A. I got it from Jack Sickles, at least I got an order from Jackson A. Sickles on his brother in Ne York.

Q. Who is Jackson A. Sickles?—A. I think he is an engineer or sou officer connected with the Mississippi, Ouachita and Red River Ra road.

Q. You got that through an order from Sickles upon his brother the city of New York?—A. Yes; I had persistently bored and bor away at Judge Bowen for the $50,000, and after Lewis was made pre dent I still kept at work.

Q. You mean Colonel Lewis, the president of the board of immigration?—A. Yes, sir; and the present president of the Mississippi, Ouachita and Red River Railroad.

Q. How is it that this treasurer of the road paid you, or procured you to be paid, $10,000 through his brother?—A. Lewis told Sickles to give me those bonds and Sickles drew an order on his brother in New York.

Q. What bonds?—A. Some of the bonds on this contract, this acceptance.

Q. Do you mean that the bonds upon the contract were State aid bonds?—A. Bonds issued to the Mississippi, Ouachita and Red River Railroad.

Q. Issued by the procurement of Judge Bowen?—A. I do not know how that is. I have the bonds yet in New York. I have not sold them.

Q. Do you know that they were issued by the procurement of Senator Clayton?—A. I do not know anything about who issued them. I know they are regular.

Q. Do you remember their date?—A. No, sir; I do not remember. I left them with a friend of mine.

Q. About what time was the $10,000 paid?—A. It was paid some time in the month of December last.

Q. Why has not the balance of the $50,000 been paid?—A. I do not know. I do not know why I have not had the whole $50,000. I have worked hard for it.

Q. Have you demanded it from time to time?—A. Repeatedly.

Q. What excuses has Judge Bowen given for not paying?—A. He has always said that they were hard up; that they could not do it, but that he would pay it. I was very much in need of money; I had sent my family on East with expectations that I could get it. I tried every possible way and used all the argument and persuasion I could, but did not get it, and never did get any of it until last December, and then but $10,000.

Q. Have you paid Brooks any part of the $10,000?—A. No, sir.

Q. I will ask you what influences Judge Bowen brought to bear upon you to induce you to surrender your franchises in the road for $50,000, aside from what you have stated? Was he not then a judge of the supreme court, and did he not make an argument with you to convince you that it was subject to forfeiture, and would be forfeited in a short time, and that you had better sell it to him?—A. I knew that it would be forfeited on the 12th of March.

Q. At the time you made this trade with Judge Bowen, was he not then judge of the supreme court?—A. He was.

Q. Was he not then upon exceedingly intimate relations with Senator Clayton?—A. I supposed him to be.

Q. Did he not tell you that, by making this arrangement and getting your road out of the way, he could get State aid for his road, the amount you surrendered, and that the object of buying you out was to get your road out of the way?—A. Certainly; there was no State aid that he could get until somebody surrendered, and if we surrendered he would get it.

Q. Whom would he get it from?—A. From the commissioners.

Q. Was not Senator Clayton then one of the commissioners?—A. He was.

Q. Did he not very soon afterward award that State aid?—A. I suppose he did, because afterward I got Bowen's acceptance.

Q. Is it not true that Senator Clayton and Judge Thomas M. Bowen

were then personally interested in that road themselves?—A. I do not know that Clayton was interested. Bowen was president of the company. I do not think that Clayton appeared upon the record as a director.

Q. Although he may not have appeared as a director, or as a party in interest upon the record, is it not your understanding that he was really interested in the road?—A. At that time?

Q. Yes, sir.—A. No, sir; I must say that I did not then think that he was any more interested in that road than any other—not at that time.

Q. Did he not have a personal interest in all the roads?—A. He did not have in the Helena and Little Rock.

Q. Do you not know the fact that he did have a personal interest in some other roads in the State?—A. I have heard rumors. I have no knowledge. The award was given to the road for 98 miles.

Q. Tell the committee what Judge Bowen, as president of the Mississippi, Ouachita and Red River Railroad, did with the State-aid bonds issued by Governor Clayton?—A. I do not know. I was very anxious to find out what he did; I wanted some of them; but what he did with them I could not find out. I wanted to find where they were, so that I could get my $50,000.

Q. Do you know to what extent the Mississippi, Ouachita and Red River Railroad had been built and completed?—A. I do not.

Q. You know nothing about it?—A. I never have been on the road.

Q. Are you a contractor upon the White River Valley Railroad in the State of Arkansas?—A. I am one of the contractors for the construction of that road. Judge English and myself are the trustees as between the president of the road and the contractors.

Q. What are you to have, or were you to have, for the completion of your contract, and how were you to be paid?—A. We bought out a contract that had been previously awarded to a man by the name of McCrainer and Company. The firm of which I am one gave him $2,500 in cash for his franchise. He had a contract with the commissioner of internal improvements, for the construction of a levee at the White River, under which the State was to pay in bonds, I think, 75 cents a yard for the construction of the levee. We went on and erected a levee there, under our engineer's estimate of one hundred and seventy-six thousand and some hundred dollars. We worked several days after that with our men. We became so embarrassed that we had to tell the men that they had better stop a while—we did not have the money to pay them; or if they would go on and trust to our honesty, we would pay them by and by. They concluded they would not work. I went over to Little Rock the latter part of this last January to get the bonds we were entitled to, carrying over the estimate of the engineer, a plat of the country through which it runs, the sections marked off under the law that were affected by this work, and demanded that we should have our bonds. I called upon the commissioner of internal improvements and asked that he should issue to us, in accordance with the contract made by McCrainer and Company and assigned to us, the one hundred and seventy-six thousand and some hundred dollars. I did not expect he would give us the whole, because that was all the estimate. I expected, of course, that he would make a reservation, as it is usual in such cases to save something back to protect. He met me with the assertion——

Q. Whom do you mean?—A. The commissioner of the board of public works, Thomas.

Q. And also one of the railroad commissioners?—A. Yes. He met me with the assertion that our contract with McCrainer was not very good. I said to him, "Mr. Thomas, we paid that in good faith; we paid the money for it before we did a thing; we paid $2,500 in bonds to have the assignment made to us, and it was at your suggestion that we bought out these prior contractors." He scouted the idea at once, and seemed to be quite earnest in the matter that it was not his suggestion; that if we had a contract at all it was under the railroad law. I told him that under whatever law it was done, we had done the work in good faith, and he said that if we were entitled to any bonds at all it was under the railroad law. Then he interposed the objection that we had not completed the entire levee. I, of course, admitted that we had not completed the entire levee, but I said we were going to do it, and he certainly could not ask us to do two or three hundred thousand dollars' worth of work there with no guarantee that we should get the bonds. Then another reason why he could not give me the bonds was, that there were no blanks there. That I knew was quite a fatal one, and I told him then that if he would give me a certificate calling for those bonds when the work was done; if he would give me a certificate for one hundred and seventy-six thousand dollars, I would deposit that certificate with Tucker, a banker there in Little Rock; that I would not call for the award until the work was done for the whole of it, and if we did not finish the work we would not be entitled to anything; that we should then have to go on and expend some thirty or forty thousand dollars more. I finally got him to reconsider the matter. I told him it could hardly be possible that the law contemplated that all this work should be done before there was any money paid. It was not possible, and if it were, I asked to be put on the footing with others; that I knew he had paid others. I finally persuaded him to issue to me, and I gave a receipt for one hundred and sixty-three thousand dollars, leaving a balance of work to be paid for.

Q. You got how much?—A. I gave him a receipt for $163,000.

Q. How many bonds did you get? Did you get the full amount of bonds for which you receipted?—A. No, sir; I did not. I gave a receipt for $163,000, but I did not get $163,000. It would be a half breach of confidence to go into the particulars unless the committee insisted on it.

Mr. BARNES insisted on his right to go into the particulars of the transaction.

Mr. BOWEN objected to it as irrelevant to the investigation of the committee.

The COMMITTEE allowed the examination to proceed.

By Mr. BARNES:

Q. State what you really did receive, although you receipted for $163,000.—A. I received $120,600.

Q. Why was it that you only received $120,600 instead of $163,000?—A. In the first place, we had to make a bargain with the directors of the road and the president of the road, or, rather, a part of the directors. It was with some difficulty that we could get the directors of the road to sign this contract with us. In order to induce them to sign this contract with us, we, as contractors, agreed to give 15 per cent. of these bonds.

Q. What part of the difference of $42,400 did the commissioner of the board of public works get for his share?—A. I gave him an order on the State treasurer for $3,000.

Q. How was the whole fund distributed? Who got it?—A. That I

do not know, really. I can only state whom I gave orders to. I gave the engineer $5,000.

Q. Who was he?—A. Let me state why I did it. The engineer had to go to work and make out this map, and he had to work all night Saturday and all day Sunday. Although I did not promise to give him anything, I said to him "Major, if you get this done so that I can get my bonds, I will see you paid," without stating how much or in what way. So far as the engineer is concerned, he is a stranger to me. He acted in so fair a way; it did not seem to make him any more eager to do it, only I wanted to get my papers and my bonds before the fund was exhausted, and in order to do so I wanted that he should go over this map, section by section, and over the profile, so that he could make the certificate to the commissioner of internal improvements, and in order to do that he had to work all night Saturday night and almost all day Sunday. I told him that if he would do it I would do what was right in my estimation. I said "I do not propose to say to you how much; you must leave that to my sense of justice or generosity; but I will see that you are paid." I left an order on the treasurer for him for $5,000, drawn in blank; I sent it to him in a note.

Q. For that day and night's work?—A. For that day and night's work.

Q. What did you do with the balance of the $42,400?—A. Fifteen per cent., which amounts to $24,400, went to the president and some of the directors of this road.

Q. Who were they?—A. The president was J. G. Botsford, a son-in-law of the hotel-keeper at Little Rock. I think it amounted to $24,400, but I am not sure. At all events, it was fifteen per cent. on $163,000. I gave to Thomas an order for $3,000, and to Mr. Phillips $10,000. I think that is all.

Q. Who is Phillips?—A. He is a clerk in the office of the commissioner of internal improvements—a clerk in Thomas's office.

Q. And to the commissioner himself you gave an order for $3,000?—A. Yes, sir.

Q. When was Phillips appointed, and by whom?—A. Thomas, I suppose, appointed him. He is the only clerk in the office. I hope this committee will not think I did that in the way of a bribe. It was necessary, in order to do our work, that I should get this fund very soon, or I should never get it.

Q. Do you mean by that that you had to submit to the terms dictated by the commissioner of public works or get nothing?—A. I admit it was *quasi* dishonorable, and I would not have done it at all but that it was necessary. We had invested an amount of $41,000 in money, and it was necessary, in order to go on, that we should raise this, and if we did not raise this we would lose that. So whatever I got, I went on with the business principle that all I got was profit.

Q. Why was it that you had to give Phillips, the clerk in Thomas's office, $10,000?—A. I told you I met with various reasons and objections why the bonds could not be issued at all. I endeavored to overcome these *seriatim* as they came up. It was even necessary that we should make this sacrifice of $18,000 in order to get them. The $24,000 was a business transaction. We had told them if they would make this contract we would give them 15 per cent.

Q. I am instructed to ask you if the Arkansas Central Railroad Company, in which you were a director, did not purchase the franchise of the Prairie County and Pine Bluff Railroad, in the State of Arkansas?—A. We concluded to run a branch from our railroad down to Pine Bluff

under the same directors, and we made a purchase from the Prairie County and Pine Bluff Railroad of their State award, if they would surrender it and get it turned over to us.

Q. When did you make that purchase, and what did you give for it?—A. I think we gave $100,000. It was last winter some time.

Q. Just after the adjournment of the legislature?—A. I cannot tell whether before or after the legislature sat, or during the session.

Q. Somewhere about that time?—A. It was about that time. It was a year ago this present winter.

Q. Who were the parties in interest in the Prairie County and Pine Bluff Railroad?—A. I do not know them all.

Q. State those you do know.—A. They were the incorporators of the road.

Q. Was Senator Young, who supported Governor Clayton, one?—A. P. H. Young was one of the directors.

Q. Who were the other directors?—A. The governor's brother was one. I am not certain that Judge Wilshire was not one.

Q. Formerly supreme judge?—A. Yes, sir; I rather think he was one, but I will not be positive. At all events they were the incorporators of the road. They could easily be found out.

Q. Were they not intimate friends and supporters of Governor Clayton in his race for the Senate?—A. I supposed them to be. All these parties I mentioned I think were favorable to the governor's election.

Q. You say you were to give those men $100,000 in the bonds of that road?—A. I think that was the agreement. It came up before the board of directors.

Q. Did you ever talk with Brooks about that?—A. I presume I did.

Q. Might it not then have been that case in which you referred to the $100,000, instead of the $35,000 you actually paid Bennett?—A. It may have been that. I do not know how that is. I presume I told Mr. Brooks that we had to pay those fellows something.

Q. You referred to a power of attorney executed by Joseph Brooks to you to do certain things. I ask you whether or not that power of attorney was a general power.—A. I think it was a power of attorney to sign his name and act in his place—a formal proxy.

Q. Did he not state to you, in connection with the execution of the power, that you were more familiar with the matters connected with the road, and that he left it all to you?—A. I think it is very likely he said that.

Q. Is it not a fact?—A. I cannot say that he did. I know that such is the fact; whether he said so or not, I cannot say.

Q. Do you not know the fact that you transacted the whole of the business yourself?—A. I did. I had probably interested myself in the construction of the road more than any other one.

Q. He had confidence in you, and gave you an unlimited discretion in the use of his name?—A. He did.

Q. Do you consider, or do you mean to say to the committee, that there was anything dishonorable in the transaction between you and Brooks in the sale of your interest to Judge Bowen for $50,000?—A. No, sir; it would be an admission that I was dishonorable. Certainly there cannot be anything dishonorable in it.

Q. Where is Mr. Dorsey now?—A. He is in London; so I was informed when I was in New York a few days ago. He is expected home about the first of the month, but probably will not be before the middle.

Q. Did you state in your examination-in-chief that Judge Bennett was interested in the Arkansas Central road before you surrendered the aid?

—A. Yes, sir. He was interested to the extent of being a director, the same as myself.

Q. You stated the amount that you were to receive, to be divided between you and Brooks?—A. Yes, sir.

Q. Why is it that Bennett was to have no interest in that division?—A. Bennett was also connected with the Mississippi, Ouachita, and Red River, and was to derive his benefit from what they got.

By Mr. BOWEN:

Q. State to the committee now the general reputation and standing of the Honorable Benjamin Thomas at the time he was appointed commissioner of public works by Governor Clayton.—A. I could hardly say anything against him, from the fact that I nominated him for the State senate. He was the candidate I selected myself.

Q. Was he not an intimate friend of Joseph Brooks at the time he was nominated for the State senate?—A. Yes, sir.

Q. Was he, or was he not, a minister of the gospel?—A. He was.

Q. Was he appointed after he was elected senator?—A. He was.

By Mr. BARNES:

Q. You stated that at the time of Thomas's election to the senate, he was regarded as the friend and associate of Joseph Brooks?—A. Yes; we were all friendly.

Q. Did he not, immediately after his appointment as commissioner of public works, turn against Brooks and make war upon him?—A. He was thought to be unfriendly to Brooks about the time of his appointment and shortly after.

Q. Did he not go to Helena and make a speech against Brooks immediately after?—A. Not immediately after, but he came there at the time of the congressional convention for the election of a succeeding member of Congress, when Mr. Brooks and Colonel Roots were candidates. At that time he came there to make a speech, and he was not at that time friendly with Joseph Brooks.

Q. Did not the people of the county at that time accuse him directly of being a traitor, and threaten to put him in the river?—A. There was some pretty hard talk against him right at the convention.

By Mr. NORWOOD:

Q. When did the conversation occur between you and Judge Bennett about employing him to secure the State aid?—A. It was before he went over to the Rock.

Q. Fix the date if you can.—A. I can hardly state the time. It was before we got it a little while, and when we got it I do not remember, although that is of course a matter of record.

Q. What year was it and what month?—A. A year ago this last fall.

Q. What month?—A. I cannot tell you what month. It was before the convening of the legislature, I think, or about that time.

Q. Who sought the interview on this subject? Did you seek it or did Judge Bennett seek it?—A. I do not think it was a sought thing. I think we met in the railroad office to talk over the matters connected with the road, and Dorsey, Bennett, and myself were there.

Q. Who introduced the subject?—A. I cannot tell you.

Q. Who first proposed the intervention of Judge Bennett's aid?—A. I think either Colonel Dorsey or myself did—one of us two; I do not remember which. We thought Judge Bennett would have a good deal of influence over there, and we wanted he should get it.

Q. You think, then, that one of you approached Judge Bennett on the subject?—A. Certainly.

Q. Why did you do so?—A. Because we thought he would succeed in getting it.

Q. Why did you think he would succeed?—A. For the reason that we knew him to be influential over there, or supposed he would be. The delegation from our county were all warm personal friends of his, and we thought he would have a great deal of influence over there.

Q. Over where?—A. Over at the legislature, and at the Rock, with the commissioners. There were various roads that wanted this award, and Colonel Dorsey was a comparative stranger in the State. He had come from Ohio to help the construction, and, as I stated, there was not such cordiality between Governor Clayton and myself as there had been before, growing out of local politics.

Q. Did you approach him because you supposed he was influential with the board that were to award State aid?—A. On the same principle that you would employ a good advocate to carry a thing through. We knew that he was friendly and that they would hear his requests and wishes quicker than they would Colonel Dorsey's or my own.

Q. Was that the only reason you had for employing him?—A. I think I may say that was the only reason. If we had thought some other man would have done better, we should have made it an inducement to him.

Q. You stated that he said he had influence. With whom did he say he had influence?—A. I do not know that he said with anybody. He said that he had influence over at the Rock, at the capital.

Q. Who was governor when this award was made?—A. I think Senator Clayton. He was governor at the time we had this talk, I know.

Q. How long was it between the talk and the award of the State aid?—A. I cannot remember that. I cannot fix definitely on the time we had the talk, nor can I on the time we had the award.

Q. Did you have any conversation with Bennett after he went to Little Rock, before the award was made?—A. No, sir.

Q. You had but the one interview?—A. But the one interview. I may have met him, and presume I did, when I was over at the Rock, once or twice, but I never had anything to do; neither did I see the governor nor any one for the procuring of this aid.

Q. The contract, then, to pay him the $70,000 in bonds was made in your first interview?—A. Yes, sir. I know he said, either at that interview or some other, that he had got to use this, and that he was not entitled to anything, and if he got it, it would be a gratuity. Whether that was at the first interview or at some subsequent one, I cannot tell.

Q. If he got what?—A. If he got the $70,000 we were to give him; that it was not to be for him; that he had got to use it, and that if he did get anything out of the $70,000 it would be a gratuity. That part of the conversation I remember; but when it was I cannot tell.

Q. How old a man is Judge Bennett?—A. I should think about forty-two or forty-three.

Q. Had he any reputation as a lawyer when appointed on the bench?—A. No, sir; he had never practiced law before the war. During the war he was in the Army, and after its close he became a captain in the Regular Army.

Q. What road is Thomas M. Bowen president of?—A. I do not think he is president of any road now. He was then president of the Mississippi, Ouachita and Red River road.

Q. Do you hold that draft still as a *bona-fide* claim, and expect to re-

cover it?—A. I hold it as a *bona-fide* claim as good as could ever be made. As for my expectations, I do not expect to get it. I shall try to get it, however.

Q. Why have you never sued it?—A. I did once put it in the hands of Milton Rice to sue it, and he advised me not. He had it for a while. I asked him if it had not better be sued, and he said no; the time would come by and by when he thought I would get it; and Mr. Bowen all the while told me, whenever I saw him, that they were very hard up, but he would pay it; he would see that it was paid.

Q. Did you indorse the $10,000 you got on that draft?—A. No, sir; I gave a receipt for it. I had it in my pocket at the time.

Q. You stated, I believe, what Mr. Bennett's occupation was in Illinois before he went to Arkansas?—A. He had been a merchant, and failed, and had been a hotel-keeper before the war broke out. He could hardly be said to have a residence there; he was simply in the Army.

Q. How long had he resided in Arkansas before he was appointed circuit judge?—A. I think probably there was but a little interval between the time of his resignation from the Army and his appointment as judge; I do not know that there was any.

WASHINGTON, *February* 26, 1872.

ROBERT F. CATTERSON sworn and examined.

By Mr. BARNES:

Question. Where do you reside?—Answer. In the city of Little Rock, Arkansas.

Q. How long have you resided in the State of Arkansas?—A. I have resided there since October, 1865.

Q. Where did you formerly reside?—A. At Indianapolis, in the State of Indiana.

Q. What position or positions, if any, did you hold prior to your removal to the State of Arkansas?—A. At the time I went to Arkansas, I was in the United States Army with the rank of brigadier-general. I had not been mustered out at the time I went to Arkansas.

Q. What positions have you held since you resided in the State of Arkansas, and what position do you now hold?—A. I was a member of the first legislature that assembled in Arkansas after reconstruction. I was afterward appointed United States marshal for the eastern district of Arkansas. At present I hold the position of mayor of the city of Little Rock.

Q. When did you cease to be United States marshal, and how?—A. I was suspended from that office, the suspension, I think, to take effect on the 1st day of June, 1871.

Q. State at whose instance you were suspended, if you know.—A. I think at the instance of Senator Clayton.

Q. To what political party do you now belong, and to what political party did you adhere prior to your removal?—A. I never have voted any ticket excepting as a republican. I never belonged to any other party. I belong to that party now.

WASHINGTON, *March* 26, 1872.

H. L. MCCONNELL sworn and examined.

By Mr. BARNES:

Question. Where do you reside?—Answer. In Little Rock, Arkansas.

Q. What length of time have you resided in Arkansas, and at what places?—A. For very nearly three years. I have resided in Dardanelle, Yell County, Arkansas; Van Buren, Crawford County, Arkansas; Little Rock, Pulaski County, Arkansas.

Q. What is the extent of your acquaintance in the State?—A. It is of such a character as would likely be formed by a person who has nearly continuously occupied a journalistic position in that time.

Q. What is your profession, or calling?—A. A journalist.

Q. How long have you been a journalist?—A. Since 1865.

Q. What is your age?—A. Twenty-nine, past.

Q. What business have you pursued during your residence in Arkansas?—A. That of a journalist; occasionally practicing law.

Q. Are you acquainted with Senator Powell Clayton, and if yea, how long have you known him?—A. I am; and I have known him since 1869.

Q. Are you acquainted with O. A. Hadley, the present acting governor of Arkansas, and if yea, how long have you known him?—A. I am; and I have known him since 1870.

Q. Are you acquainted with Judge John McClure, Thomas M. Bowen, and General John Edwards, and if yea, how long have you known them?—A. Yes, sir; I am acquainted with each and all of them.

Q. Are you acquainted with James M. Johnson, the present secretary of the State of Arkansas?—A. Yes, sir.

Q. How long have you known him?—A. I have known him since 1869.

Q. What were the relations between you and Senator Clayton during your stay in Arkansas?—A. That of a political supporter until some six or seven months since, I believe. Until that time I was connected with papers that advocated his election to the United States Senate.

Q. Were you on terms of personal intimacy?—A. I was on terms of personal intimacy, but not throughout the entire period to which you allude. My personal intimacy commenced with Senator Clayton about the winter of 1870-'71.

Q. Did you in any way participate in the election canvass in the State of Arkansas in 1870; and if so to what extent?—A. I participated in it by contributions and editorials, in an epistolary way, and as a stump talker or speaker.

Q. Did you take part in the election of Senator Clayton to the Senate of the United States, and if so at whose instance?—A. In the first election I did not in person advocate his election. The second election I did, in person.

Q. A portion of the question you have not responded to. At whose instance?—A. At my own.

Q. Were you in the city of Little Rock during the sitting of the legislature of said State elected in 1870?—A. Yes, sir.

Q. Did you make the acquaintance of any of the members of the legislature; and if so, name them?—A. I knew a number of them before the legislature met, but including those I had known before, and those I met there, I knew Mr. Pettigru, Judge Neal, John F. Owen, E. H. Chamberlain, R. A. Howard, J. P. Grady, Charles Minor, Meek—I have forgotten Mr. Meek's first name, J. A. I think it is; Mr. Tankersley, the

speaker. Do you desire me to name all? That about covers the leaders.

Mr. BARNES. I do not wish anything further. (To the witness.) Did you, or did you not, at any time prior to the November election, 1870, have any correspondence, or hold any conversation or conversations, with Powell Clayton, then governor of the State of Arkansas, touching the congressional race or contest in the third congressional district of that State, between General John Edwards and Thomas Boles; and, if so, state the facts?—A. You will allow me to inquire, are the senatorial election and congressional election coupled in the question.

Q. No, sir; the congressional election.—A. I had no conversations with Senator Clayton, but had correspondence with him. You mean prior to the election?

Q. Yes, sir; prior to the November election, 1870.—A. I had correspondence with him.

Q. Do you mean that that correspondence was in writing?—A. Yes, sir; certainly. How else could it be?

Q. I have asked you to state the facts.—A. Of the correspondence?

Mr. BARNES. Yes, sir.

Mr. MORRILL. You cannot state what is in the letters.

Mr. BARNES. Perhaps I may lay the proper foundation.

Mr. NORWOOD. Ask him where the letters are.

By Mr. BARNES:

Q. Where are the letters?—A. Between Governor Clayton and myself?

Q. Yes, sir.—A. Where are the letters received from him?

Q. Yes; where are they?—A. I am unable to tell you. I do not know.

Q. Where and when did you see them last?—A. In September, 1871, at Little Rock, in Pulaski County.

Q. What has become of them?—A. They were in my possession. I do not know what became of them.

Q. Did you lose them by design, or anything of that sort on your part?—A. No.

Mr. MCCLURE. I object to that question.

Mr. MORRILL. It does not appear that they are lost.

Mr. BARNES. He says they are gone from his possession.

The WITNESS. I was asked the question what became of them, to which I responded I do not know.

Mr. MORRILL. You can tell where the letters are, as far as you know.

The WITNESS. I will simply condense the replies already made, or rather elaborate them. The letters were in my possession in October 1871, and in an interval of three days, during my own absence from the place where they were, they were there when I left, and when I returned they were gone. I do not know where they are, of course not knowing anything about them.

By Mr. MORRILL:

Q. You have made search for them?—A. Yes, sir; I made inquiries. I had not much use in searching for letters.

By Mr. BARNES:

Q. Where did you leave them?—A. In my trunk.

Q. Where was your trunk?—A. At my temporary residence—my boarding-house.

Q. Whose house?—A. Mr. Parish's.

Q. Where did Parish live?—A. He resided in Little Rock, and does now.

Q. Have you any means of knowing how those letters got out of your possession or got away from your trunk or room?—A. No, sir; I have not.

Q. Have you any information upon that subject that you can give the committee touching the matter?—A. I have information; that is, I have information of a character that leads me to believe those letters, with others, were taken.

Q. Whom by?—A. The information I have is that they were taken by one of two persons.

Q. State what fact you know in reference to it; give all the circumstances attending the entry of your room and the interference with your property or papers.—A. Of my own knowledge?

Q. Or any information that satisfies you that they were disturbed?

Mr. McCLURE. I object.

Mr. MORRILL. State any fact.

A. I left my room some time, I do not remember the day, and I had opened my trunk for the purpose of taking out some papers that I had written in this city and in Helena, Phillips County, Arkansas, for Senator Clayton to sign them. I always was very careful to see that my papers were together. I remember looking over other papers and noticing their indorsements. I am in the habit of making an abstract of what each letter contains. I run over them and took out the letters that were for Senator Clayton to sign, letters that I had written by his instruction, and I locked the trunk, and at that time I know the letters were in there. I was away from the room two or three days; it may have been three or four days; I am not positive on that; it could not have exceeded four, however. When I came back to the room my trunk was open, and my first impulse, of course, was to inquire who had been there, and Mr. Parish, the gentleman of the house, told me——

Mr. McCLURE. I object.

Mr. MORRILL. I do not think that is allowable.

Mr. BARNES. We propose to ask him this question: If he does not know the fact that Senator Clayton entered that house and took those papers?

The WITNESS. I do not.

By Mr. MORRILL:

Q. That you did not know?—A. No, sir.

By Mr. BARNES:

Q. You mean by that that you did not see him take them?—A. And necessarily, for that reason, I do not know it.

Q. Have you any reason to believe——

Mr. MORRILL. It is not worth while to pursue that inquiry.

Mr. NORWOOD. Go on now in reference to the letters.

Mr. BARNES. We propose to prove the contents.

Mr. MORRILL. I think you may do that.

By Mr. MORRILL:

Q. Go on and state the contents as briefly as you can. You had better begin with the date of the letters about which you can testify.—A. I can state on or about the date. The first letter that I received from Senator, then Governor, Clayton was while I was editing the Dardanelle Times. Governor Clayton had made a speech, the October speech, in which he had recommended certain political measures, and

stated that he would recommend them to the legislature. He continued in the State, and I had written him a letter congratulating him upon that speech and assuring him of my support for the Senate, and drawing his attention to the editorial support that I had already given him in the Dardanelle Times.

Q. What was the date?—A. I think his letter was in the end of October or commencement of November, as near as I can recollect. Anyhow, the letter was acknowledging the receipt of mine and thanking me for the indorsement that I had given him. He said that the policy that he had announced he believed to be the correct one; that it had received a hearty indorsement throughout the State; and that he would be much obliged to me for all the support, or something of that sort—general terms. The second letter, as near as I can recollect, was in regard to the faction of the republican party known as the "Brindletails," meaning thereby Mr. Hodges——

Q. Never mind; we know what that means.—A. They had purchased a paper in Little Rock called the Journal, or they were going to call it the Journal, and were starting it for the purpose of disrupting the republican party, and making war on him, and would I give him all the aid I could; and I think his expression—it may have been mine—give them a dose in the way of a letter denunciatory of the Journal, that is, of this new paper. That is about the tenor of it as near as I can remember. He wanted to know how Boles stood politically, or something of that sort.

By Mr. NORWOOD:

Q. That was the second letter?—A. That is the second letter, and according to my remembrance, November or December, I think it was. The third letter, I do not remember whether it was Senator Clayton's or whether it was signed by his private secretary, Mr. Barton, at that time, one or the other; a letter in reference to a statement I had sent him some time in December, 1869, or January, 1870, referring to a drunken row that had taken place at Dardanelle, in which colored people and white citizens had been engaged. I drew his attention to the fact that the row had been caused by bad whisky, but most likely some persons would endeavor to distort it, and make it out a political matter, and begging him not to have anything to do with it; that it was a Christmas performance. The response I received was—I think it was Mr. Barton's letter, and for that reason I presume it would not be in testimony; still Mr. Barton was his private secretary.

By Mr. BARNES:

Q. Go on and state it.—A. That I did not understand the situation; that was the response.

By Mr. MORRILL:

Q. Go to the next letter.—A. My next one was at Van Buren some time in the month of May, 1870, acknowledging the receipt of a letter I had written to him.

Q. I thought your first letter was October, 1871.—A. October, 1869. That third letter was an acknowledgment of a letter I had sent him. The militia had been called out, had been organized in Yell County, and I had objected to it, and there had been a coldness between us, although I had kept on supporting him for the senate; at least I had not written against him. He answered this letter that I referred to May, 1870, acknowledged the receipt of that document, and stated that he would be much obliged to me to let him know how the political situation was

going on, &c., and what the democrats up in that section of the country were going to do—the opposition, the democrats, and all others. The next letter I received was some time in October, 1870. It was in acknowledgment—I suppose it was intended to be in acknowledgment—of a speech that I had made denouncing Judge Boles for Congress and supporting Mr. Clayton for the Senate. I was at that time contributing to a newspaper published in that section of the country, and he said he was much obliged to me for the hard licks I was giving them.

Q. Giving whom?—A. The opposers of Edwards and Clayton, I suppose.

By Mr. NORWOOD:

Q. You were opposing Boles?—A. Yes, sir; I was opposing Boles. The next letter was written, I think, the same month, and was from the private secretary of Senator Clayton, (it might have been from himself, I have forgotten precisely,) acknowledging the receipt of a communication that I had sent to the Republican, ridiculing Britton and some others. I had sent it to Senator Clayton with the request that he should have it published.

Q. What month was that?—A. In October. The note stated, as near as I can remember, that it was not deemed advisable just then to publish it.

By Mr. MORRILL:

Q. Go to the next.—A. The next letter was another letter of thanks, I suppose it might be styled, for my support of him; complimentary of the manner of the support; that his opponents, our opponents, would be defeated; and he hoped to see me down to the legislature; that is the way he did all his friends; there was no specific gentleman, as I understood it to be. Then comes an interregnum. I have to skip away over to 1871. The next letter——

By Mr. BARNES:

Q. Before you pass to that, I wish to call your attention to a letter you got from Barton, that the governor had desired the republicans to go for Boles. Did he write you anything in reference to that?—A. No. The next letters that came now cover a period subsequent to the congressional election, and consequently are not included in the question.

By Mr. MORRILL:

Q. Go right on. Give an account of the letters that are lost.—A. The next letter was in may, 1871, I think. It was at the time of the special session of the Senate for the purpose of considering the Alabama treaty, whatever month; I think it was May—May or June.

Q. Probably in May. The time, perhaps, is not material.—A. After the congressional election and after the senatorial election.

Senator CLAYTON. I must have been in the Senate at that time.

The WITNESS. Certainly; of course. The letter was on Arkansas matters—Arkansas politics; gave a *résumé* of the condition of affairs here; suggestions as to my own editorial course; messages that the writer desired delivered to two or three different people. And there were letters of that general character on Arkansas politics up to about the 1st of September, coming, perhaps, once every three weeks.

Q. You mean to say you kept up a correspondence from May to September following?—A. Yes, sir; to the end of August.

Q. You mean to state that as the general character of the letters?—A. That was the general character of the letters. These later answers do not cover the period indicated by the main question.

Mr. BARNES. But the committee directs you to go on and state them all as though the question did extract the answer.

The WITNESS. Precisely.

Q. (By Mr. MORRILL.) Does that cover the whole period of the letters?—A. Yes, sir.

By Mr. BARNES:

Q. Can you state anything more fully now in reference to the contents of those letters than you have?—A. I cannot now. I have not given any minutiæ except about those first letters.

Q. Did you receive a letter from Governor Clayton while at a railroad meeting in Benton County or any county in the northwest?—A. It was forwarded to me. That was the letter I have already alluded to.

Q. You have, then, given, as far as you now remember, all the letters that were taken from your possession written by Clayton?—A. Yes; as near as I can remember; letters that I have not got.

Q. (By Mr. BARNES.) Tell what you know, if anything, in reference to Powell Clayton being opposed to the election of Boles and favoring the election of Edwards. Tell what he did in reference to the matter.—A. The fact was rather notorious that I was opposing Mr. Boles, and it was perhaps equally well known that I was favorable to Senator Clayton's election; and his friends, those who were supposed to be his political friends, talked pretty generally to me, and they led me to believe——

By Mr. MORRILL:

Q. What did Senator Clayton do; what do you know about what he did?—A. I do not know anything.

By Mr. BARNES:

Q. Did he or did he not, in one of the letters he wrote to you in that canvass, say to you that he desired the defeat of Boles, or substantially that?—A. I have already answered that question. I think it is the third or fourth letter in which he congratulated me on the way we were flaying them, (his opponents,) which of course, I presumed, taken in conjunction with what I had always understood, and supposed from his authoritative exponents, to be Mr. Boles as well as Mr. McDonald. Of course the statements made to me by other people, I suppose, do not amount to anything.

Mr. MORRILL. No, sir.

Q. (By Mr. BARNES.) Did you or did you not have any correspondence in writing or otherwise with Powell Clayton pending the canvass in the State of Arkansas, during the sitting of the legislature of that State, or since, in reference to or touching his election to the Senate of the United States; if so, state all that occurred in any way between you in reference thereto, and also all you know, if anything, of the means employed by Clayton and his friends to accomplish his election to the Senate of the United States?—A. You couple the question with regard to the correspondence with that of the acts. Do you want them answered separately or together?

Q. I suppose that so much of the question as relates to the correspondence in writing has already been answered. The rest of the question I desire particularly to direct your attention to.

Mr. MORRILL. That relates to conversations you may have had with Senator Clayton during the canvass.

The WITNESS. Does it relate to conversations I had with others, and communicated by me to him?

Q. (By Mr. BARNES.) Of course it does; it was brought home to his knowledge.—A. I was a delegate to the railroad convention in Northwest Arkansas, a delegate from the then county of my residence, and I met there a number of gentlemen.

By Mr. NORWOOD:

Q. Met where?—A. At Bentonville, the place where the convention was held. Among others I met Judge David J. Walker, a prominent conservative, Mr. Pettigru, Ragan, and others. I read to those gentlemen such extracts from the letters I have already referred to——

Mr. MORRILL. Tell about the conversation with Clayton.

The WITNESS. I could not give any until after I went to Little Rock.

Mr. MORRILL. We want your conversation with Senator Clayton. We do not want the conversations with other people at all.

The WITNESS. I had no conversations in person with Senator Clayton in reference to his own election to the United States Senate the first time. The conversations I had with Senator Clayton were in relation to his election the second time, to his present seat.

Q. (By Mr. NORWOOD.) Proceed and tell what they were.—A. The first conversation was some time in February, 1871. He had then been elected, but matters were, for him, at that time in rather a disagreeable, bad fix, and the conversation turned more on what had happened antecedent to the first election.

Q. Give what it was.—A. He said that they were going the next day to introduce a resolution impeaching the then lieutenant-governor, James M. Johnson. I showed the senator some letters that I had from friends of mine in Northwest Arkansas—democrats—addressed to democratic or conservative members of the legislature. The letters, each and all of them, I believe stated that I was a supporter of Governor Clayton, and at the same time was friendly to universal suffrage and amnesty, as probably the recipients would know or recollect; and that they thought while my advice would tend to the success of Clayton, at the same time it would induce him to accord certain public wants to the democracy or to the conservatives. I showed him those letters; I believe I showed him all; I do not remember precisely; one or two certainly; and he said he would be much obliged to me. Said he, "I suppose you are going to help us through." I believe that was his expression. I told him certainly; and he said he would like me to see such members of the legislature as I thought I could influence, and he would see me that day at the hotel—would call for me. This was Sunday; I have forgotten the day of the month. He called, and I went to his residence with him. We had some conversation about matters generally, and he stated that the resolution would be introduced the next day; it was a very important one; and we discussed the Johnson business. I recollect I suggested to him that I thought they were making a martyr out of poor material; but he was apparently certain of the result, and would I do all I could to see people. I went and made an engagement with J. P. Grady, a member of the legislature from Crawford County, who had been elected ostensibly as a Clayton man, but was then fighting him, being what was called a "Brindle-tail." I met Senator Clayton in the evening subsequent to my first interview with Grady, (in which first interview I had appointed a time for a second,) and the Senator asked me how I thought he was. I told him I thought he was "bull-headed," a common expression down there, meaning determined, dogmatic. Said I, "What shall I say to him?" Says he, "Do all you can with him to get him all right to vote for this resolution." Says I, "This fellow An-

derson, the then sheriff of Crawford County, is in a snarl; either had been indicted or was about to be, and I suppose Brother Grady would like the sheriff's office. The Senator intimated to me to tell him that he could have that or anything that was reasonable; that he must have his vote. In accordance with that I met Mr. Grady and had conversation on the subject; but I did not make any proposition to him, nor indeed did the Senator say anything out of the way. It was just a gentle hint. Grady and I talked together, I reckon, for three hours, but it was no use; Mr. Grady was going to vote against the resolution. Mr. H. R. Withers, the then editor of the Ozark (Arkansas) Tablet, was there.

Mr. MORRILL. You are off of the conversation with Senator Clayton.

The WITNESS. I am off, but keeping up the thread of the subject.

Mr. MORRILL. It is not admissible unless communicated to Senator Clayton.

The WITNESS. It was communicated to him. Mr. Withers, who was on a similar errand, as he told me, to see Mr. Pettigru, with, I believe, like unsuccess, was there, and we walked out in the streets about 12 o'clock that night and we met Mr. James V. Fitch, a very prominent Clayton man, and Mr. Fitch said that it was all right. I think his language was, "bullied through." I informed him then that there was a good deal of talking, but I could not get the names of the men that were going to vote, and said I would like to see Mr. Clayton and tell him, and he said they were all, I think, up at Judge McClure's. It was then 12 o'clock at night, and I could not see him. I went in and saw Senator Clayton the next morning. I was present at the hall, the lower house, I will state, when the resolution of impeachment was introduced, and witnessed its failure by one majority. I saw Senator Clayton, and he told me my predictions had been verified, or something of that sort, and he made some remark in connection with its mismanagement, somebody had gone back on him, or something of that sort. In the mean time the Clayton party in the legislature, almost immediately after that, had expelled a member of the legislature from, I think, the northeastern part of the State, named Thornburg, and that had disgusted the democrats, who up to that period had pretty generally been acting with the State administration; and it was rather essential to get the democratic votes to keep this coalition split, and for that purpose I saw time and again, repeatedly, members of the legislature. Then I received a letter to go home, which I did; and on my return back, I had the conversations with Senator Clayton relating to what I suppose the question was intended to hit. When I came down I believe he was then impeached. I think the resolutions had already been adopted. Judge Bowen had been to Washington, so Clayton told me, and he stated that affairs were in a pretty bad way; but he appeared to be sanguine; said he would clean them out yet, or something of that sort. I then presented my letter to Judge Neal. Judge Neal had received the vote of the conservatives for speaker, though the democrats did not regard him as a real democrat. I also met Pettigru, Mr. Meek, Pitman; I have forgotton the others. Mr. Neal said the condition of affairs was very bad, and the legislature was there under great expense.

By Mr. MORRILL:

Q. You say you repeated these conversations to Senator Clayton?—A. Yes, sir; I stated, before I had these conversations with these gentlemen, to the Senator that I was going to see them.

Q. Then you related them to him?—A. Subsequently, after I had had

them. Mr. Neal said the legislature was there under great expense; that while he did not like Clayton, and all that sort of thing, did not like radicalism, still he did not see what was going to be accomplished; that Mr. Clayton, I think he said, held the bag, or something of that sort, and the conservatives ought to make the best terms they could with him. I acquiesced in that. He said that it was one great ground of complaint against Clayton that he had not given to Edwards the certificate; it was understood it would be given to him, and that when that thing was done it would be all right. Mr. Pettigru assented to pretty much the same idea, and Mr. Duffie, of the State senate. I saw Senator Clayton, I do not know within what time afterward. I alluded to that fact, and told him that the democrats felt sore; that they had an idea that he was humbugging them; and that it became necessary, if he wanted to get out of this snarl, to divide his opponents. He acquiesced in that. I then suggested to him that I had with me a gentleman named Whitesides, from Crawford County, an old confederate soldier, an excellent gentleman, too, who had been elected by the people of Crawford County, at the last general election, sheriff, but who had not received his commission, owing to the position taken by the State administration, or by the supreme court, I have forgotten which part of the administration; that county officers elected then could not be commissioned; that Mr. Whitesides was then with me, and would give all his influence with the democratic members to bring about an armistice. And in this connection I will state, so that that can be understood, that at that time the democrats and the Brindle-tails, so called, were in collusion for the purpose of bringing up contests in the State legislature by which to throw out the Clayton men. It was very evident. I suggested that to the Senator, and he acquiesced very readily, that if this combination kept up, there would not be a corporal's guard left of Clayton men. The point was to obtain an armistice. The Senator informed me that the certificate to General Edwards would be issued, and I spoke to him about commissioning Mr. Whitesides as sheriff. I informed him that H. S. Anderson, the then incumbent, had resigned his position, which paper was in the possession of Mr. Whitesides; that Mr. Whitesides had been fairly elected to it, and I thought if he would commission Whitesides as sheriff it would have an excellent effect upon those democrats who were personal friends of Whitesides. He assented to that, but said he thought it would raise a howl among his own friends; that is, his partisan friends—the ultra men. I then detailed to him, I believe, this fact: that Mr. Neal would meet with me again. I then again met Mr. Neal. I alluded to the circumstances that had transpired in the conversation between Governor Clayton and myself, and, as I subsequently told Governor Clayton pretty much all the conversation that then occurred, I repeat it now. He said that he was desirous; that he, Mr. Neal, had been elected pretty much upon the platform of having two county courts in Sebastian; that if he could get a fair election law passed, and a bill creating two county courts in Sebastian, he did not care; that a great many men, who believed, as he did, that most of the charges against Governor Clayton were true, would not come up and testify to the facts anyhow, because, says he, "He has got the senate," meaning that a majority of the senate were Clayton men. I remarked that that was literally true, and made the further suggestion to him that had been made to me by friends of Senator Clayton, that it was possible we would have the old story of chasing the tiger—I am giving my own words; that if we undertook to clean the Clayton men out in the lower house, probably the Clayton men might recipro-

cate the compliment in the senate. He admitted the truth of that. He said there was no law for it: I said it was going to cost the people a good deal of money. He says, "Make these statements of mine to Senator Clayton, if you please." I did make them to him, and he said there would be no trouble in passing some such law as that. I did not specify the character, nor did he suppose there would be any difficulty in passing the bill providing for the two county courts. Mr. Whitesides then, at my suggestion, went to see the governor, and on his return from there, informed me that he had had a conversation with the governor, and that Senator Clayton——

Mr. McCLURE. I object.

The WITNESS. I am only relating those conversations which were afterward repeated to Governor Clayton.

Mr. MORRILL. That will not be allowable unless repeated to him.

The WITNESS. I did repeat them. Mr. Whitesides said that he had seen the governor and that the governor thought he would give him a commission, or whatever you call it, the appointment; and that he, Whitesides, was going to do all he could for him. I saw Governor Clayton that evening, I think it was, and remarked to him that Whitesides had stated this to me, and he questioned me as to whether I thought Whitesides would act in good faith; I told him I did. Mr. Whitesides then saw Pettigru, and Duffie, a gentleman who worked with them for the purpose of bringing about this truce, you understand, and as proof of his sincerity I detailed those facts to the Senator. May I have that question again? (The question was repeated.)

Mr. BARNES. Give the whole thing.

The WITNESS. Judge Neal then, this Neal that I referred to——

By Mr. NORWOOD:

Q. The Neal who has been examined here?—A. Yes, sir; Judge Neal remarked to me that he thought it would be a good idea to meet with somebody in regard to this armistice business, and I suggested to him that some Clayton men from the senate and from the house should meet with such conservatives as he, Neal, should indicate. I suggested that to Governor Clayton; and from him, as from Judge Neal, I learned, as from others who were in the meetings, that those meetings did take place between the conservative members and Mr. Clayton's friends with a view of discussing such measures as they could probably agree upon. Finally Mr. Neal remarked to me that he was meeting with these gentlemen, and as near as I can remember, the names that he gave me of those he met with were Tankersley, Waters, and I think Hazledine. I think those were the names. He did not have very much idea that it would amount to much, and he said he was then meeting with Hadley, and he then told me that he had met once Governor Clayton; that he had seen Senator Clayton himself. Judge Neal then stated that he did not believe the present managers of impeachment appointed on behalf of the house would do anything; that it would not amount to anything at all; and he thought they would quit. I asked him what his opinion was of this matter, and he said he supposed they would have to have other managers appointed, and asked me who I thought ought to go on the list. I told him I did not know particularly, but I supposed himself and Mr. Minor, a lawyer, a member of the legislature, and Mr. Pettigru, would make good managers. He said no, that Pettigru was too obstinate, and that he thought Meek would do; to which I responded that to my knowledge Mr. Meek was about as bad as Pettigru. He said yes, but he would be all right. I told Governor Clayton this con-

versation that happened; and shortly after that a resolution was introduced, based upon the requisite previous action, appointing three other managers of impeachment in the house, of which Mr. Neal was the chairman. We then had some conversation in regard to the charges, &c. Neal told me this; he said he was going to give them three days; that is, those that were preferring charges.

By Mr. McCLURE:

Q. Is this a conversation communicated to Senator Clayton?—A. Yes, sir. You will understand that I am not giving *verbatim et literatim* the conversations, but just the ideas, the substance of what transpired. I would not pretend to do anything else, there were so many of them. Judge Neal told me that he was going to give them three days to collect evidence, but that he did not believe they were going to get it.

By Mr. NORWOOD:

Q. Who was going to give them three days?—A. Mr. Neal was to give to the gentlemen who had preferred these charges against Governor Clayton three days to substantiate them. On Wednesday he came to my room and told me that he had looked the thing up and called on people for the charges, and that he could not make anything out of anything at all except in the Clark County judgeship, and that as he had got the promise of his bills, he was going to get the committee to state they could not find any charge against the governor; that he was tired of this child's play, or boy's play, and would take the consequences of defending it in the legislature. I told this to the governor. On Friday night Mr. Neal came into my room and submitted to me a draught of a report, a similar report to that presented in the legislature the next day, on Saturday, and adopted; and he said he had Meek all right. I left there, and went up to the executive office, the governor's, and found there Judge McClure and Mr. Hadley, and the governor. The governor came out in the room, and I detailed to him the fact that it was all right; that is, that these charges were going to be bursted up, withdrawn, defeated; and he said yes, and asked me to walk into the next room.

By Mr. BARNES:

Q. Did he say anything else?—A. Nothing that I remember. He said yes, and "Did you see the charges?" or "Did you read the paper?" That was it; something of that sort. The previous day, I will state, on Friday or Thursday, perhaps Thursday morning, Senator Clayton had announced to me his intention of resigning from the Senate and remaining as governor because of the occupancy of the lieutenant-governorship by Mr. Johnson. He asked me what I thought of it, to which I responded that I thought it would be a good thing; that if he went to Washington under the circumstances he would simply be one Senator and a member of Congress with him, and would be antagonized by a Senator and another member of Congress and the State administration at home fighting him—this must have been Friday morning, because I remember it was after I had acquired knowledge of the fact that the charges were going to be withdrawn—and whereas if he remained it would do him a great deal of good politically; that Mr. Redfield, of the "Cincinnati Commercial," a friend of mine, was then there and had promised me that he would write elaborate letters to the effect that this was not a row about place or about warring partisan friends, but that the resignation of Mr. Clayton—I told him of this professionally so that he would not repeat it until he was allowed to—that the resigna-

tion was made in accordance with no partisan spirit but to save the State to General Grant, and we discussed about it, and I told him I was going to elaborate that idea pretty extensively and I thought he would stand a great deal better at Washington than he had before, to which he assented. At that meeting the letter of Senator Clayton announcing his retiracy from the senatorial seat, his declination of it, was read.

By Mr. NORWOOD:

Q. What meeting?—A. The meeting I referred to on that night, the same night I informed the governor that Mr. Neal the next day was going to present the withdrawal of the charges.

By Mr. BARNES:

Q. How did that letter come to be written?—A. I do not know. The day before this conversation the Senator had asked Judge McClure and myself each to write a letter, resigning; and when I got up there they had the letter that was sent in, as near as I can remember, pretty much the same letter; I do not know whether it was; I do not really know whose it was; but Judge McClure, I think, was writing at that time; I do not know whose it was. The resolutions were introduced and the charges were withdrawn, but something you have of that, I presume, before you. On the Saturday, Friday night perhaps it was—yes, Friday night before the senatorial election—Senator Clayton told me that arrangements were then on foot by which he thought perhaps there was still a show for his going to the Senate; and on Sunday afternoon Judge Ham, the brother-in-law of the secretary of state, and then Lieutenant-Governor James M. Johnson, met me and told me the thing had been arranged. I saw Governor Clayton that afternoon or evening, I have forgotten which, and he related to me the substance of the transaction which subsequently took place. On that evening Senator Clayton was at my room for a few moments and was with Judge Neal. I do not know which came first. I left them alone part of the time, and the rest of the time I was writing something, an editorial perhaps, and did not pay any attention to what transpired. E. H. Chamberlain, a member from Pulaski, came, I remember, to the door and I talked with him; that was what took me out. When Senator Clayton came out I asked him how Neal was. He told me he thought he was all right; that the election bill, the bill that I previously referred to all the way through, was what he wanted, together with his two courts in Sebastian County. I asked him if that was all, and he laughed and said something about some matters that Neal wanted; so I remember I did not inquire anything about it. I was not hunting into things of that sort, and I do not know what he did refer to. The same evening Senator Clayton told me, out in the hall, that Mr. J. C. Mills, present United States district marshal of Eastern Arkansas, had a friend from Perry County, named Scales, whom he thought he could get all right. Mr. Scales was in the same boat with Neal, claiming to be a democrat, an ultra-conservative. I saw Mr. Mills about Mr. Scales the next morning. Mr. Mills remarked that Mr. Scales, he thought, would be all right, that they belonged to the same church; and I think he said that Mr. Scales was a preacher of the same church; that he was stopping with him, and added, "if you get the governor," or, "if you will say to the governor that Scales will be all right if he gets the patronage of Perry County, I think he can be fixed." I saw the governor and told him that Mr. Scales was a thorough Methodist or Baptist or something, with Mr. Scales, but I thought the principal point of the thing was the control of the patronage of Perry County; if he could get that he would vote right. In the mean time I saw Judge

Neal. Judge Neal, in reply to my question as to what he was going to vote, said he was all right; he was not going to oppose Clayton's election to the Senate, and I pressed upon him the necessity of not voting for Senator Clayton unless his vote was wanted, urging the fact that in order to give the Senator his status, it was essential that he should only receive republican votes, and that he (Mr. Neal) must not come in unless it was absolutely needed, to which Neal assented, and said that he would not vote, or would go out, or something of that sort. I told the Senator of that. After I had seen Senator Clayton in relation to the conversation which I have already detailed with Mills and Scales, I saw Mills, and Mills informed me that Scales had seen the Senator, and that he was going to vote all right. I repeated to him the remark that I had made to Neal, that we did not want any democratic votes for Clayton, unless they were absolutely essential; that for the objects in view it was necessary he should have only republican votes. Shortly after that I met Governor Clayton in front of the Republican office, on Monday evening. This was the night before the second senatorial election, and we had some questions in relation to the member of the legislature from my own county, Mr. Grady. He said he did not know whether he was all right or not; that Mr. Sarber, a member of the senate and an active friend of Mr. Clayton, had stated that he, Mr. Grady, wanted the sheriff's office. I will premise by stating as necessary to a comprehension of this answer that the Senator had previously told him that he did not believe Whitesides, whom he had appointed sheriff of Crawford County, could be confirmed, and that in that event he proposed to appoint myself. I thanked him and told him I would do so with the understanding that Whitesides should have the bill; that Whitesides had worked for us; and when the governor remarked this, on Monday evening, that Grady wanted the sheriff's office, I replied to him that I had been thinking over the matter; that I had been one of those that had helped to elect Whitesides and I did not care to go back to the county occupying an office that nobody could be elected to fill, and so far as I was concerned I did not care about the matter, and he could do as he pleased with it. He thanked me very heartily, warmly, and said he thought that secured his election by republican votes. I came down to my room then, at the Pacific Hotel. Governor Clayton there saw Mr. J. C. Mills, the United States marshal, and Mr. Chamberlain. He informed me that some of his friends, I think he mentioned this Mr. Butler, the express agent, and Mr. Bottsford, were hunting Whittemore; that Whittemore was the democratic member from Pulaski, and thought they would get him to vote all right, and Clayton went off. The governor came back about one or two in the morning, and knocked at my door. I have forgotten the precise hour, one or two; it was very late; and I found afterward that Judge Bowen was in his company, although he was not at the precise period when I saw him. I was out in the hall; I do not know where he was. I do not think I had retired. He informed me that he had had a lively time; that he had been to see White and Mason, as near as I can remember, colored senators.

By Mr. McCLURE:

Q. Was this conversation communicated to Governor Clayton?—A. This was Governor Clayton's conversation to me.

Q. I understood you to say Bowen?—A. No; Bowen was with Governor Clayton, but I think he was outside; in fact, I know he was. I asked Governor Clayton if they were all right, and he said yes; that he had so-and-so of a time with them, with the remark that they were

an expensive lot, or something of that sort; I have forgotten what it was.

By Mr. BARNES:

Q. Did he state how he got them?—A. I suppose this was his conversation, as near as I can remember.

By Mr. NORWOOD:

Q. Who was it that was an expensive lot?—A. These colored statesmen, White and Mason, two colored senators. That morning—this was, then, on the morning of the senatorial election—I went to see Robert S. Gantt, who had been elected a member of the legislature from Pulaski County, on some sort of a ticket, the democratic ticket, I suppose, and I alluded to the fact to Mr. Gantt that the Senator had fulfilled his pledges; that he had given Mr. Edwards his certificate, and that I thought it was about time now for him to go in and do something. Says I, "If you do not like him, you can get him out of the State anyhow." Well, he said that he had played fairer than he thought he would, and he said, "I will go out and do what I can." This was two or three hours before the election. He met me after the election and congratulated me upon the result as a political supporter of the Senator. He said he had done all he could. This conversation was not repeated until after the election was over. I just told him in general terms that Gantt had promised to support him. The election was held that Tuesday and the Senator was elected. I have exhausted that question.

By Mr. NORWOOD:

Q. Did Mr. Neal get the two courts in Sebastian County?—A. The legislature passed a bill of that sort; yes, sir.

By Mr. BARNES:

Q. Did Clayton say anything or Neal say anything in reference to aid to a railroad in connection with his support of Clayton for the Senate, or Clayton's friends—State aid?—A. He never separately put anything, for the reason that he was acting in this mattter as the friend of Governor Clayton. He put it always upon the ground that he had been elected pledged to get two courts in Sebastian, and that if a conservative could go back to his people and say that he had extorted this measure from a radical governor and a radical legislature, he never could be beaten in the district again, to which I heartily assented; and that the people wanted a new election law, and incidentally he stated to me, upon two or three occasions, that he was or would be interested in some railroad scheme with a gentleman there from New York named Hussey; that he had a railroad scheme on foot, and in order to be on good terms with these gentlemen——

By Mr. NORWOOD:

Q. On good terms with whom?—A. He said "them;" I supposed, of course, he meant Senator Clayton or his successor, whoever he would be, or the State administration generally, and the legislature. We each understand him. Of course he would not particularize to me, he never did, but I want to state there very emphatically that he put it upon the ground, and he always conveyed the idea to me, that he was thus acting because he wanted this law passed giving two courts to Sebastian County, and because of the election law. These allusions to the railroad came in in alluding to charges that people were making against

him, that he had some private ax to grind. He laughed about it and said, "Of course, who can blame me for trying to be friendly to these men?" Said he, "I have got some railroad scheme;" it was quite frequently alluded to, but I myself did not know anything about it.

WASHINGTON, *March* 27, 1872.

H. L. MCCONNELL'S examination continued.

By Mr. BARNES:

Question. You can go on with your answer.—Answer. On the day after the election, perhaps two days, one or two days before, I had a conversation with Governor Clayton.

By Mr. NORWOOD:

Q. What election do you refer to?—A. After the second senatorial election. The conversation was in relation to the election. I remarked to him that I supposed it had drained him pretty heavily, to which he replied yes, that the fight had cost him a great deal, somewhere in the neighborhood of $20,000. We then spoke on the subject of his leaving for Washington City, when he acquiesced in the wish that had been expressed by some mutual friends that I should accompany him hither, it being understood that upon my return to Little Rock I was to be connected editorially with the "Republican." During the session of the United States district court at Van Buren, Judge David Walker, of Fayetteville, and myself, called upon General Edwards at Fort Smith, and informed him that we understood he was going to Little Rock to see Governor Clayton. Judge Walker told him that the members of the legislature from his (Walker's) district, Washington County, were personal friends to him.

By Mr. MCCLURE:

Q. Judge Walker told who?—A. Told General Edwards. The substance of this conversation was written to Governor Clayton.

Q. By whom?—A. By myself. Judge Walker told General Edwards that he, Walker, wanted Edwards to say to Clayton that if he, Clayton, would treat Edwards right and stick to him, all the votes that he, Walker, could influence would be thrown for Clayton, and that Owen, Caraloff, and the other members elected from the Washington district would vote for Clayton. In addition to this Judge Walker stated that he would go down to Little Rock and work for the governor.

WASHINGTON, *April* 10, 1872.

H. L. MCCONNELL'S examination continued.

By Mr. BARNES:

Q. Do you sufficiently comprehend the question you were answering at the time your examination ceased?—A. It was in reference to Judge Walker, I believe. There were other democrats of Western Arkansas, whose names I cannot now think of, who made similar remarks to me that were communicated by me at the time to Governor Clayton.

Mr. MCCLURE. I suggest that that cannot be competent.

By the CHAIRMAN:

Q. Other democrats in Western Arkansas communicated to Governor Clayton?—A. Other democrats living in Fort Smith. These democrats to whom I refer were supporters of General Edwards, and they were very positive in stating to me—I desire to put it in that way—that in the event of the governor adhering to General Edwards, then all their influence—one of them, for instance, was Mr. Pettigru, of Franklin County, a democrat elected as a democrat, and who afterward did vote for Governor Clayton, and was also a supporter of General Edwards. Colonel H. R. Withers, of Ozark, was another one, a democrat, who went himself down to Little Rock, who was a supporter of General Edwards, and who afterward electioneered for Governor Clayton.

Q. You said, "in the event of the governor adhering to General Edwards, then all their influence." You have not stated what that influence was to be for?—A. That influence was to be given for Governor Clayton to the United States Senate. Mr. James Pettigru was a member of the legislature; had been just elected. I am referring now, of course, you understand, to the first senatorial election, not the second. I then went down to Little Rock myself, after the first senatorial election, and saw Governor Clayton. He informed me they were in pretty tight water just then, and that he would like to have whatever influence I might possess as a liberal republican among the democrats of Western Arkansas to extricate himself and friends from the political dilemma in which they were then situated. I had a variety of letters with me from prominent democrats of Western Arkansas addressed to democratic members of the legislature, stating to them that although I was a friend of Governor Clayton, at the same time I was a friend of liberal legislation, and would they confer with me for the purpose of doing whatever they could to bring order out of the then existing chaos. The condition of affairs at that time was of a character of this sort: that although Governor Clayton had had ostensibly a majority of supporters, and although he had been elected primarily by very nearly all of the democratic votes, still, at the same time, owing to the fact that his friends had made an assault on a democratic member and expelled him, (I think Mr. Thornburg was his name; he was from the Thornburg district, anyhow,) they were then commencing to war on Clayton. The governor called upon me that afternoon at the hotel, and took me to his residence, and then informed me at the residence that he would need votes very badly for to-morrow, and wanted to know what my relations were with one J. P. Grady, a member of the legislature from Crawford. Mr. Grady was then an opponent of Governor Clayton. I explained to the governor that I did not know what I could do with him, but I could see him. The governor then told me that the next morning they were to introduce resolutions impeaching James M. Johnson, the then lieutenant-governor.

Mr. MCCLURE. I suggest to the committee that the witness has rehearsed that portion of his testimony.

By the CHAIRMAN:

Q. Was the conversation at the United States district court at Van Buren with Judge Walker before or after the senatorial election?—A. Before; before both.

Q. You left off in detailing that conversation. Was this conversation that you had with Governor Clayton you were detailing, after the conversation with Walker?—A. Yes, sir; and after the first senatorial election.

By Mr. BARNES:

Q. You had not detailed anything in reference to Walker, as I understand?—A. No, sir; I commenced it.

By the CHAIRMAN:

Q. Is there anything else in relation to that conversation with Walker?—A. No, sir; nothing at all.

Q. Is there anything in reference to these letters of Edwards that you have not given?—A. I have not testified as to that.

Q. Have you got through with giving an answer detailing the several conversations, with their connection, that you had with Governor Clayton and his friends on the subjects referred to? Had you got through with that?—A. My impression is, not those in regard to Edwards.

Q. All the others?—A. Yes, sir; I believe so.

Q. Now, with reference to those, go right along and state it.—A. General Edwards wrote me some time in 1870, stating that he was going to be a candidate, and that he and myself, addressing us, would go in and support him, and sweep the State, aided, as he styled it, by old Greeley. I have that letter in my possession.

Mr. BARNES. We would like to have you produce any letters you have and make them a part of your deposition.

Q. (By the CHAIRMAN.) Where is the letter?—A. Here is the first one. (Producing it.)

Mr. MCCLURE. We object to it.

The committee overruled the objection.

The letter is as follows:

"FORT SMITH, *January* 19, 1870.

"SIR: I regret you did not call on me on my return, as I wanted to have had a long conversation with you on political matters. I have become so affected with rheumatism of late that I am not able to get about as I would like, and did in days of yore.

"The republicans, headed by the governor, will be opposed by the radicals, and defended by Butler and Sumner in so doing, while we will be backed by Greeley, the old wheel-horse. There will be no democratic party in the field, many of whom will not vote who could do so. The most will vote for us. The extremists will meet and shake hands. But we are bound to sweep the State, elect Clayton to the Senate, and general peace and prosperity ensue.

"I am glad you are with us for Clayton, and regret you are not running your paper at this place. Wish you success at all events.

"Hope to see you up often.

"Yours, truly,

"JOHN EDWARDS.

"Major MCCONNELL."

The WITNESS. I subsequently had various interviews with General Edwards. The subsequent interview I think is detailed already in the testimony. After that, however, I received a letter from Mr. Edwards in November. He had gone to Little Rock after the conversation which we had had with Judge Walker.

By the CHAIRMAN:

Q. In November, 1870?—A. Yes, sir; in that letter he detailed to me the fact——

Q. Have you got the letter?—A. Yes, sir. (Producing it.)

Mr. BARNES. What is the date?

The WITNESS. November 25, 1870.

Mr. MCCLURE. We object to all of them upon the same ground as the other one.

The committee overruled the objection.

The letter is as follows:

"LITTLE ROCK, *November* 25.

"DEAR MC.: The Brindle-tails, who own McDiarmid, the clerk of the court, have succeeded in getting him to certify to the secretary of state only the bogus polls. If we can succeed in getting the returns of the legal polls sent up I am satisfied the governor will disregard the bogus returns and give me the certificate. We are at work to get up the legal returns, and it presents a knotty question.

"The fight on the senatorial question is waxing hot, and the fight is becoming hotter daily. The Brindle-tails are trying to coalesce with the conservatives, but it is no go; they will co-operate with Clayton, sure.

"The Brindle-tails are on their last legs. Good-by, Nancy.

"It is strange to say the democrats, Brindle-tails, and Minstrels, all believe there is to be a reconstruction of parties, and a new party must inevitably rise up between old-fossil democracy and extreme radicalism, and everybody is claiming to have been the first to advocate such a move. The Era, under your control, is spoken of here as the most ably conducted journal in the State, battling for law, order, and the right. God bless you and crown your efforts with success.

"Yours, truly,

"EDWARDS."

The WITNESS. I received another letter of the date of——; it was, anyhow, subsequent to that. There is only one part of it; the other portion of it was taken away from me; so it has no date. (Producing it.)

By Mr. BARNES:

Q. The other portion was lost?—A. Yes; but it is very evident from the substance of the letter that it was subsequent to that one.

Q. Another portion of it lost under the circumstances—— A. Already detailed.

Q. In the first part of your examination?—A. Yes, sir.

Mr. BARNES. We offer this, so much as we have got, and we propose to prove the contents and the date of the other portion by the witness.

Mr. MCCLURE. We object to it.

By Mr. BARNES:

Q. I understand that this is a part of the letter?—A. Yes, sir.

Q. What is your recollection as to the date of that letter and as to the time it was received?—A. I cannot speak positively as to the time it was received, but it is my impression that that particular letter was received after the first senatorial election and before the second.

WASHINGTON, *April* 11, 1872.

H. L. MCCONNELL'S examination continued.

Mr. BARNES. (To the witness.) Give the date, as near as you can, of the letter last referred to, and the contents of the portion of it that is missing.

Mr. MCCLURE. I interpose an objection upon the ground that they have not laid the foundation.

By the CHAIRMAN:

Q. I understand you to say that the other part of that letter is lost?—A. Yes, sir.

Q. Have you made diligent search for it?—A. I have.

Q. In all places where you thought you could find it?—I have.

Q. And you have been unsuccessful in finding it?—A. Altogether unsuccessful.

Q. Was it lost by any fault of yours?—A. No, sir; on the contrary, I believe by either the agent of Mr. Clayton or Mr. Clayton himself.

Q. What we want is the exact facts in connection with this letter. Go on and answer the question of Mr. Barnes.—A. The other portion of the letter, as near as I can remember, referred to the fact that the accused seemed to be undecided, whilst he was acting as governor, as to whether he should or not——

Q. What was that?—A. He commenced by stating, as near as I can recollect, that there seemed to be a certain degree of indecision in the mind of the governor as to whether or not he should issue the certificate to him, Edwards, and that he was at a loss to understand that, except it was perhaps that he was attempting or endeavoring to coalesce with the Brindle-tails, in which event he supposed he would give the certificate to Boles; that he did not think Governor Clayton would likely do that, for the reason that if the certificate was given to Boles it could only be given on the vote of five townships in Pulaski County——

Mr. MCCLURE. I suggest that that is the substance of the letter to which he first testified.

The CHAIRMAN. Let him get through. (To the witness.) Go on.

The WITNESS. And that he, Edwards, thought that would be done. He then goes on and reiterates that fact itself, and states finally the conclusion that——

The CHAIRMAN. You are giving the substance of the portion lost?

The WITNESS. The first portion. Now I am commencing on the second portion.

The CHAIRMAN. You need not state that.

Mr. BARNES. It is here, and shows for itself.

Q. (By the CHAIRMAN.) What you have testified to is what was contained in the first part of the letter?—A. Yes, sir. Edwards starts out upon that premise, that he is afraid Boles will get the certificate, basing that fear upon the fact of the vote of five townships.

Q. Did he state anything else?—A. Nothing else that I remember.

By Mr. BARNES:

Q. Are you able to fix the date of the letter?—A. Precisely I cannot. I desire to state that on yesterday I stated that this letter was received after the first senatorial election, and before the second. I was mistaken; it was received before the first senatorial election.

The second portion of the letter was admitted. It is as follows:

"Of his own friends, and the conservatives, what has he to dread? The minute I get the certificate, and Clayton elected Senator, Rice, you see, will sit like a bump on a log at Washington. He has nothing under God's heaven to dread, for the bottom to the tub will have dropped out—Brindle-tails utterly crushed; but Clayton lacks confidence in everybody. But what I write is as true as gospel. I have been at work for some days, and succeeded admirably in squelching out several contests in other counties, urged on by the Brindle-tails, in order to compromise the contest from Pulaski, by combinations they suppose could be effected by having as many contests come up as possible.

"If the governor knew the one-tenth part I do, working for his ir est, he would not hesitate one moment as to his line of policy and d Besides the new moves on the political chess-board, to come up year or two, he could place himself on the top round of the lad This I will talk about when I see you.

"Now he has nine-tenths of the people on his side in carrying out foregoing programme. I am satisfied Clayton will stand firm and ne again coalesce with the Brindle-tails, although the Brindles to-day st in the attitude of *beg*, *buy*, or *bully*. Now, on the other hand, supp Clayton should recognize and count the vote of five townships in county, which was taken possession of by an armed force and the ular judges driven off, and where a large number of votes were more than have registered, and give Boles the certificate, don't you what a howl would be raised by the conservatives, and all good rep licans all over the State; such a panic will be created and storm ra he could not withstand. But you see that cannot be done, becaus would let in Brooks and Hodges, and keep out the others, who are p licly pledged to his support. The Brindle-tails are hobnobbing with one who will listen to their seductive talk. How would it do for yo embody the foregoing thoughts in a letter and return to me by Dardanelle to the governor? The Brindle-tails will have to go unde hope.

"What puzzles me is the status of Lieutenant-Governor Johnson know it don't seem to give Clayton any uneasiness, yet I don't un stand how the case is to be disposed of as to his successor.

"Yours, truly,

"JOHN EDWARDS

By Mr. BARNES:

Q. Have you any other letters from General Edwards?—A. fourth letter was a species of reiteration of the contents of the th He laid great stress upon the votes of those five townships.

Mr. MCCLURE. I object to his testifying as to what is in the lette

The WITNESS. I have the letter here. (Producing it.)

Mr. BARNES. Give the date of it.

The WITNESS. It has no date. It is a portion of a letter, the s as the other one.

Mr. BARNES. (To Mr. McClure.) Do you require me to lay the s foundation for this letter?

Mr. MCCLURE. Yes, sir.

By Mr. BARNES:

Q. Is this you denominate the fourth letter, or a portion of the fou letter, received from General Edwards, in reference to the same s ject?—A. The same subject.

Q. Is the part you have here dated?—A. No, sir; it is not.

Q. Do you remember the date of it, or anything near the time?— I think it was the second boat after that other one.

Q. Where is the other portion of it?—A. I do not know.

Q. Is it lost or destroyed?—A. I do not know. It is not in my pos sion. I have made diligent search for it, and do not know where it

Q. Have you examined in all places where you supposed you wo be likely to find it?—A. Yes, sir.

Q. Is it lost by any fault on your part?—A. No, sir.

Q. You have been unable to find it?—A. Yes, sir; I have alre answered that.

Mr. BARNES. I now propose to prove the contents of the first part, and offer this, the remaining portion, as evidence in the case.

By the CHAIRMAN:

Q. You were editor of the Era at that time?—A. Yes, sir.

The portion of the letter produced and admitted is as follows:

"Gives me the certificate, as our case is identical. One good sign, the Brindle-tails, especially McDonald, who left this morning, came to me before leaving and claimed to be my friend, &c.; of this I believe as much as I please.

"Clayton has the inside track, can be elected, and, above all, will receive the support of all conservatives, but if he should fail to give me the certificate such a howl as will go up you never did hear.

"There is another move on the chess-board to select his successor, and it will be done by the legislature.

"The Era is now considered the most live paper in the State. Everybody is asking me who is at the wheel.

"If I rise I have made a big thing for the future, and hope I can help my friends. Matters northward, you see, are taking a significant shape. I write in a hurry.

"Yours, truly,

"EDWARDS.

"My regards to Mrs. Chilton. Write and strengthen the governor's backbone; tell him how the public pulse is in the western part of the State."

By Mr. BARNES:

Q. State the date of that letter as near as you can, and the contents of the portion that is lost.—A. Four or five days or a week may have intervened between this letter and the other one. The mails were very irregular; they had to go by boat. In the letter I think General Edwards started out by saying something in reference to Newton and Nash, and also in relation to Howard and R. S. Gantt, stating that they were doing all they could, but he did not know that they would meet with much success; that he was relying more on A. H. Garland.

Q. Relying on him for what?—A. To get him the certificate. He mentioned also that he was disheartened and despondent, or something, and then goes on. He is in the habit of reiterating always in his letters; he states the same thing two or three times.

Q. That is the missing part?—A. Yes, sir.

Q. Have you any other letters? If so, produce them and give their dates.—A. I have a letter here [producing it] without any date, but I observe it is a full letter.

Q. About what time did you receive it?—A. I received it, so the indorsement states, February 12, 1871.

Q. An indorsement made by you at the time you received it?—A. Yes, sir; the same day.

Q. Is it your best recollection that that indorsement is correct?—A. Yes, sir; for the reason that I received it on board of a boat from Fort Smith.

Mr. BARNES. We offer this letter in evidence.

The CHAIRMAN. (To Mr. McClure.) Have you any other objection than you have already made to the admission of the others?

Mr. McCLURE. The same objection.

The letter was admitted, as follows:

"MY DEAR COLONEL: Your note of this date is received, and thank you kindly for your kindly consideration. I went to the boat two or three times, but could not find out where you were, and had supposed you had returned on the same boat.

"I am glad you are still here. I am sorry I can't go down on this boat. I am just waiting for to arrange some business before I can leave. Time is short. But as soon as I get it I will come on to the Rock and have a few days' talk.

"From the vote ousting the great high priest, Joe, I shall be under more obligations to the governor for the certificate than any one else, and I think I can, in return, render him essential service, as they intend making war upon him on his taking his seat.

"The strong point in the case will be for me to show up the Brindletail revolutionary proceedings.

"Please send me up the papers by return boat, and let me hear from you.

"Remember me kindly to C———.

"Yours, truly,

"E———."

Q. (By Mr. BARNES.) Have you any further letters from General Edwards?—A. I have others, but not in relation to obtaining the certificate.

Q. Have you any letters from him in relation to the election of Senator Clayton to the Senate of the United States, or in reference to any arrangement, bargain, or agreement, upon his part, or promise to do anything for Clayton by way of furthering his election to the Senate?—A. No, sir; none.

Q. You have no letters from him, then, bearing upon the subject of Senator Clayton's election in any way, except those you have given?—A. No, sir; none.

Q. Did you receive any other letters from General Edwards, at any time, in reference to his certificate?—A. None.

Q. Or in reference to his support of Senator Clayton to the Senate?—A. None.

Q. Did you have any conversations with him at any time in reference to the certificate, or in reference to any agreement that it should be issued to him, or anything in reference to the subject-matters in contest here, and, if so, state the conversation, and when and where?

The CHAIRMAN. Any conversation, other than you have detailed. Have you detailed any conversations in your prior testimony?

The WITNESS. I have already detailed some.

The CHAIRMAN. We do not want those repeated. Now confine yourself to such conversation as you have not already detailed, and go ahead.

The WITNESS. Precisely. The first time I went down to the Rock after the first senatorial election, General Edwards accompanied me, or came on the boat part of the way with me. We were in Little Rock together after the first senatorial election, at the time when the impeachment of Governor Clayton had already been attempted in the house, had passed in the house, and when managers of impeachment had been appointed for the purpose of procuring testimony. General Edwards alluded to the fact that he could not do very much with the matter of relieving Governor Clayton from his embarrassment unless he got his certificate. He then adverted, or rather requested me to remind Governor Clayton of the fact that before—he had been down be-

fore that—the governor had promised to give him the certificate, and was only waiting for a report of the Mallory committee; that the report was out, and the supreme court had given their decision in the matter of the vote, and he, Edwards, wanted me to go to Governor Clayton and urge upon him the giving of it right off; and it was then given. I told that to Governor Clayton, and then the certificate was given, I think the same day, or, perhaps, the day after.

Q. (By the CHAIRMAN.) That was before the second election?—A. Yes, sir; before the second election. Edwards, in addition to that, added, that if this thing was facilitated and hurried up, so that he could get on to Washington, he could head off the fight being made on Clayton here, and at the same time could assist in the efforts being made to divide the democratic opposition to the governor. The certificate was issued, I think, the same day or the day after; I have forgotten which.

Q. Do you remember what date that was?—A. I do not recollect.

Mr. BARNES. The 20th of February is the date of the certificate, and the 16th day of February is the date of the impeachment.

Mr. NORWOOD. The witness says it was between those two dates.

The WITNESS. Yes, sir.

Mr. NORWOOD. Is that all?

The WITNESS. That is all. General Edwards went to Washington, I think, two days afterward, or one day; I have forgotten which.

By Mr. BARNES:

Q. Did you have any further conversation with Senator Clayton in reference to his election to the Senate of the United States, or in reference to his agreement to issue the certificate to Edwards, other than those already detailed?—A. No, sir; none.

Q. Did you have any conversation with Mr. Neal in reference to and touching the certificate to Edwards?—A. That I have already detailed.

Q. Except what you have detailed?—A. No, sir; none.

Q. Did you have any other conversation that you remember, with Grady, other than you have detailed in reference to the office of sheriff?—A. I never detailed any.

Q. Do you know anything in reference to the appointment of Grady to the office of sheriff by Clayton, or by his procurement in consideration of his assisting——?—A. I have already detailed that.

Q. You have detailed what you know in reference to that?—A. Yes, sir.

Q. State what you know, if anything, in reference to Senator Clayton being interested in railroads in the State of Arkansas prior to his election to the Senate, and if so what roads and the means of your knowledge?—A. I do not know anything, except what others have told me.

Q. Did you have any conversation with Clayton upon the subject?—A. No, sir; nothing.

Q. Did you hear him converse with anybody else in reference to anything of that sort?—A. The only remark that I recollect in connection with it was that the Mississippi and Ouachita, I think it was, anyhow it was Lewis's road—"was giving all of us," was his expression, "a damned sight of trouble."

Q. Has there been any effort made at any time since this investigation commenced, on the part of Senator Clayton or any of his friends, to prevent you testifying in this case, and if so tell when and where, and what was said?—A. Mr. Sickles—I do not know his first name—called upon me in my room.

By Mr. McCLURE:

Q. When was it?—A. Shortly after my arrival here, some time in January, I think it was.

By the CHAIRMAN:

Q. Who called upon you?—A. Jackson E. Sickles. He suggested that I had better not testify; that it would be a good idea for me to keep out of it. I told him then that I did not intend to testify if I could get out of it. He stated that I could make money by keeping out of it, and he thought the best thing I could do would be to go away; that he was satisfied Senator Clayton felt kindly toward me. I told him I had no fight with Clayton, but if I was subpœnaed I suppose I would have to come up.

By Mr. BARNES:

Q. Where was this conversation?—A. At the Metropolitan Hotel and walking up Pennsylvania Avenue.

By Mr. McCLURE:

Q. In this city?—A. Yes, sir.

By Mr. BARNES:

Q. Did he approach you more than once in reference to this matter?—A. Two or three times—twice, anyhow.

Q. Where else?—A. The first time in the hall of the Metropolitan, and upon the other occasion in my room at the Metropolitan.

Q. Did he specify any amount that you could get if you would not testify against Clayton?—A. No, sir.

Q. Did any other person make any effort to prevent or proposition to you not to come here and testify?—A. Governor Hadley did.

Q. When did he do so, and what did he say?—A. Shortly after he came here he suggested that I was doing a foolish thing to fight Clayton. I will premise by stating that the conversation opened by my telling him that if he read the papers at all, the Tribune and Herald, and the Republican in this city, he would notice that he, Hadley, had never been attacked. Said I, "That is the best evidence in the world that I do not feel unkindly toward you." Says he, "You have no reason to feel unkindly toward Clayton." I told him I did not agree with him about that, but that I did not care to testify if I could help it. He said he would go to see Clayton and try to fix it up so that I should not testify. I told him that was an unnecessary trouble; and he then said for me to send word to him at the Arlington, I think that was the hotel he was stopping at, to let him know when I could see him. I told him I would do that if he desired, but I thought it was rather putting himself to an unnecessary trouble. There were two or three conversations of that sort between us.

By Mr. NORWOOD:

Q. Was anybody present at either one of these conversations?—A. No, sir; there was not.

By the CHAIRMAN:

Q. That is all of it?—A. That is all.

By Mr. BARNES:

Q. Has there been any other effort made by Senator Clayton, or anybody else, to prevent you from testifying or to prevent you from telling what you know?—A. No, sir; none that I know of.

Q. Do you remember about the date these letters of yours were missing, about the time you were absent from your room? I believe in the first part of your examination you stated it was in October, 1871.—A. It was about two weeks after I had ceased acting on the Republican and as private secretary for Mr. Clayton. The last interview I had with Mr. Clayton was upon my taking some letters out and taking them down to Oliver's house, which was one or two weeks before this occurred.

Q. Were these papers taken from you after the indictment of Clayton in the United States court of Arkansas?—A. Long after.

Senator CLAYTON. You mean the time I went into his room? That was last summer or fall.

Q. (By Mr. BARNES.) Will you state whether your recollection serves you that this entry was made into your room before or after Whipple and Wheeler testified before the Ku-Klux committee?—A. I do not know. I do not remember.

Q. Do you remember to have heard of Whipple and Wheeler having testified before the Ku-Klux committee at the time your room was entered? Have you any recollection upon that subject?—A. I think not. My recollection is that Whipple had come back.

Q. Had come back from Washington?—A. No; came back shortly afterward. I do not know whether he came directly home or not.

Q. You do not know that?—A. He told me about it when he came back.

Q. Did you give to Senator Clayton or to Frank Vance, the chief of police of Little Rock, or to anybody else, authority to enter your room at Mr. Parish's?—A. No, sir; I did not.

Q. Did you give to them, or either of them, or to anybody else, your key to your trunk or to your room?—A. Not at all, that I recollect. Vance and I were on friendly terms, but Governor Clayton and I were not friendly.

Q. You say, then, that you have no recollection?—A. I have not.

Q. How is it that you were away from your room at that time? Tell the circumstances connected with it, if you remember.—A. I left my room in the morning. I have an occasional habit of getting on what is generally known as a "hurrah," or "tight," about once a year. My time had then arrived for that event to take place. I left my room and came down town and staid around for two or three days. Some of my friends told me that Clayton had an idea, which was a very erroneous one, by the by, that I intended fighting him; and that he had unscrupulous friends there who would make away with me if I did not go back to my room. I went back to my room and staid there three or four days, and, impressed with this idea that I had received, I happened to look for these papers, or rather those that were missing. It was certainly not owing to the excessive amount of drink, for I had not taken it. I had been in my room, and I had been taking medicine also, and I think there was a period of perhaps two or three days elapsed. I went down town. I went back to my room with a gentleman by the name of O'Sullivan. I went in and found the trunk broken open, and this gentleman with me remarked, "There has been somebody here for you."

Q. Have you any means of knowledge as to whether you were or were not drugged upon that occasion?—A. None, except the statement of my physician.

Q. Who was your physician?—A. Dr. Smith, of Little Rock.

By Mr. NORWOOD:

Q. Who were you in company with before your room was entered, that

day or a day or so previously?—A. On the day before I went up to my room, with Mr. O'Sullivan, of the State Journal.

Q. What was your condition as to sobriety?—A. As to sobriety, it was so good that I went up there and wrote two or three letters.

Q. I do not mean when you returned to your room, but two or three days anterior.—A. I did not know what I was doing at all.

By the CHAIRMAN:

Q. You did not know what?—A. I had no idea what I was doing.

By Mr. NORWOOD:

Q. Where were you?—A. I do not really know. I do not remember.

Q. Who had charge of you? Do you know that?—A. I do not know that.

Q. Were you capable of taking charge of yourself?—A. I was like any other drunken man. O, yes; I could take charge of myself.

By Mr. BARNES:

Q. You mean to say that while you were absent from your room, when these papers were taken, during that time you were not conscious of what was occurring?—A. I was not.

By the CHAIRMAN:

Q. Can you swear that during that time you did not surrender your key to Mr. Clayton?—A. I can swear that I have no recollection of doing so at all.

Q. What I want to know is whether you can swear that Governor Clayton did not come to you and ask you for your key, and that you did not give it to him?—A. I do not remember anything about it at all.

Q. Of course you do not. You say you did not remember anything.—A. For that reason I do not know.

Q. You are not prepared to say that Senator Clayton did not ask you for your key, and that you gave it to him and he went to your room and got the papers and brought your key back to you?—A. My impression is that he would not very likely have done that, for the reason that I was rather disrespectful of Governor Clayton at that time.

Q. But you would not know at that time?—A. Still I would not like to have much to do with a man with whom I was not on good terms.

Q. But if you did not know what you were doing you could not state anything about it?—A. That is true.

Q. You are not prepared to swear but that you voluntarily surrendered that key when you were in that condition, and it was brought back to you. You cannot swear but you did those things?—A. I could not swear that. I may have done those things. I could not swear.

Q. You cannot swear but that you went to your room yourself at that time?—A. I can swear positively as to that.

Q. And yet you swear you did not know anything about it?—A. The reason I know that is, that I never went about Parish's when I was in that condition, as they belonged to the same church I did, ostensibly.

Q. Was this man O'Sullivan drunk too?—A. O, no; I reckon not. He was not with me at the time.

Q. Did you spend most of your time in a saloon?—A. I do not know where. I reckon most of my time in the Journal office.

Q. You say you do not know where?—A. No, sir.

Q. Therefore you would not swear that you did not spend it in your room?—A. I will swear I did not spend it in my room, simply because of the social relations I bore with Mr. Parish's.

Q. You do not know but they took you into your room to take care of you while you were drunk?—A. I know they did not from what they told me.

Q. But from your own knowledge?—A. I know that I could not possibly have been in the room.

By Mr. BARNES:

Q. Did you understandingly surrender your key either to Clayton, Vance, or anybody else?—A. No, sir.

Q. State anything else that Senator Clayton said or did that you have not already detailed in reference to the matters in regard to which you have been called to testify.—A. He stated in a conversation with me that he thought Grant ought to have sense enough to understand the matter of all appointments; that he was not only senator, but that he controlled the governor of the State of Arkansas, and between them they controlled the registration.

Q. Do you know of any agreement between Senator Clayton and Governor Hadley in any way touching appointments or removals from office under the State administration of Arkansas?—A. During the impeachment fight, when we were trying to fix up C. B. Neal, get him all right—he testified here, a member of the legislature—Neal asked me who would be the governor in the event of Governor Clayton's election to the Senate, and I told him I did not know. I asked Clayton himself after his election. He informed me that it would be Hadley. No; before his election I asked him, and he said it would be Hadley if they could get Johnson out of the road. I asked him what sort of a man Hadley was. I only knew him politically. He said he was a pretty good fellow. I said, "How will this affect your friends here?" "O," he says, "he will make no important appointments without consulting with me."

Q. That occurred before Johnson was appointed secretary of state?—A. Yes, sir.

Q. Did you have any conversation with Hadley upon this subject at any time; and if so, when and where?—A. Governor Hadley informed me of the same thing the night before the second senatorial election, when we drove down town together.

Q. What did he inform you?—A. On the drive down I said to him, "I understand you are going to be governor if this thing goes through to-morrow, if Clayton should be elected." Said he, "Yes; and I will take good care of you. You are a particular friend of Clayton's, and have helped us through pretty well, and whatever you and your friends want, in a reasonable way, you shall have. Of course Clayton will not object to that."

Q. Did he state to you anything in reference to any agreement between him and Clayton, by which Clayton was to control the appointments in any way, then or at any other time?—A. Clayton had previously stated to me. I have already stated that.

Q. Did you call Hadley's attention to what Clayton had said to you in that conversation?—A. Yes; I told him that.

Q. What was his reply?—A. Says he, "Of course, certainly, whatever you want." Then he referred to myself.

Q. You repeated to him in this interview, as you came down from his house to the city, what Clayton had told you?—A. Yes; what he had previously told me. He had told me that on Sunday, I think.

Q. Do you know anything about the appointments made by Senator Clayton, or agreements or promises upon his part, to make appointments, or to give to certain members of the legislature who

voted for him for Senator, appointments to certain positions? If so, tell what you know about it, what he was to do, or what Hadley was to do in furtherance of his request, if there was anything in reference to it.

The CHAIRMAN. As you have gone over that matter already, you need only to give any information beyond what you have stated.

The WITNESS. I have touched upon it pretty thoroughly; but Colonel Barnes did not put the question in the same form. At the time of the imbroglio, when the impeachment difficulty was going on, there were some doubts in the mind of Governor Clayton as to the fidelity of some members of the legislature, and I was requested by him, necessarily from the position I occupied, being an editorial writer on the Republican, and at the same time a friend of those liberals who were disposed toward him, I necessarily conversed with quite a number of them. Of course I have only to repeat that which I repeated to Governor Clayton. I met with one gentleman, Judge Steele, or Mr. Steele I suppose he was then, a member from the Little River and Sevier district. We were speaking about the possibility of evolving Mr. Clayton from his scrape, and he expressed great doubts, which rather astonished me, owing to the fact that he was elected on the Clayton ticket, and I discovered his doubts arose from the question in his own mind as to whether or not he would obtain the judgeship of his own district. He was a Methodist preacher, and said he was a very sincere man. I asked him if the judgeship would settle him; if I brought to him the promise of the judgeship, whether or not he would remain steadfast to Governor Clayton. He said he did not know; that he would take it into consideration. I went to Governor Clayton and repeated to him the fact that I thought old Steele was a little bit shaky, and that if he was not promised some other appointment he might take the trail of the Patriot, and Clayton said I should tell the old fool that if he would stick to him, all right; he would make him judge in place of Searle on the supreme bench, in the place then vacated by Judge Searle.

By Mr. NORWOOD:

Q. Did Governor Clayton afterward appoint him to that place?—A. Yes, sir; he was appointed either by Governor Clayton or Governor Hadley, I have forgotten which. Mr. Steele remained very steadfast.

By Mr. BARNES:

Q. Did Steele vote for him for Senator?—A. Yes, sir.

By Mr. NORWOOD:

Q. Were there any other cases?—A. The matter of Mr. Grady, which I have already recited, and the matter of Mr. Chamberlain, of Pulaski County.

By Mr. BARNES:

Q. What about Chamberlain?—A. Mr. Chamberlain had very grave doubts as to what he should do. He conversed with me frequently on the subject. He worked against the impeachment of Lieutenant-Governor Johnson, and it appeared to be rather evident that he was perhaps going to take part against Governor Clayton. We conversed. He said he had not been treated right—that was an expression of those men who wanted to get places; he had not been treated right, and if Clayton expected to engage his support he must pay him for it.

Q. Must pay him for it?—A. Yes; must pay him for it. I told him I thought the governor was perhaps paying out a good deal of money,

and he could not be making drains on him all the time, but if he would give me a day or two I would see the governor in relation to it. The governor complained that Chamberlain was always asking something, and that he had given him, I think he said, a justiceship of the peace, or something of that sort; but Mr. Chamberlain informed me that unless he got the superintendency of the penitentiary, a bill to create which was then pending, I believe, or was suggested, (I do not know whether it had been acted upon at all,) that he must have that. I told him he could not get it; that there were republicans who had done more for the State administration than he had, and it was idle to talk about it, and he might as well make up his mind to get what he could. He then expressed himself being satisfied.

Q. Satisfied with the office of justice of the peace, do you mean?—A. Satisfied with whatever he got. I do not know what it was; but he evidently appeared satisfied. Mr. Tankersley, who was speaker of the house, complained very much about the opposition which appeared to be expressed among the Clayton men as to the penitentiary bill which he had introduced, and he told me upon two or three occasions that if he did not get that bill through he would burst the whole thing up.

By Mr. NORWOOD:

Q. Did he get the appointment of the superintendent of the penitentiary?—A. Yes, sir. It was generally understood that if the bill passed Tankersley was to receive the appointment. There were so many aspirants for the place that they had combined to fight the bill, and Tankersley desired the governor to interfere to get his supporters to favor the bill.

By Mr. BARNES:

Q. Do you know anything in reference to any other appointment, or agreement to appoint men to office?—A. No, sir; none. I simply detailed these conversations to Governor Clayton. I do not know whether there was any understanding between him and them.

Q. What did he say when you detailed the conversations to him? Did he say anything against it?—A. O, he growled and said they were always wanting something; which was very true.

Q. State what else you know in reference to any appointments or agreements of any member of the legislature, or any person, receiving compensation or promises to vote for Governor Clayton, or assist him in his election to the Senate, that you communicated to him, or which were brought to his knowledge, that you have not already referred to.—A. I know none.

Q. You will now please state what you know in reference to getting up the levee bill, about which you were interrogated on yesterday. Tell all you know in reference to it, and the parties connected with it.—A. Before the legislature met it was generally understood there would be three or four levee bills; and when this conversation came out I had occasion to take a gentleman ——

By Mr. NORWOOD:

Q. What conversation?—A. With Governor Clayton. I took this gentleman up to see him in reference to a levee bill, and after he had left ——

By Mr. BARNES:

Q. What gentleman do you allude to?—A. A gentleman named Haymaker, from Fort Smith.

Q. This was the Haymaker that lived at Fort Smith?—A. Yes, sir. After Haymaker had left, the governor asked me about this little bill of Haymaker's, and he then stated he thought perhaps it was a pretty rough bill, but there were three or four such bills pending, and they would be all good things to use for political purposes. Governor Clayton then intimated to me that some of his supporters were interested in various bills, and that he would keep out of any of them for a while: and that when the time came he would favor the levee bill, that is, have his friends to favor that levee bill which would be most for the purposes already stated—political purposes. There was quite a fight over it, and it was understood very generally after his election which particular bill should be passed. The understanding, I believe, existed before his election, but it was understood before we left for Washington which one he would favor.

Q. At what time did you take up your residence at Little Rock after leaving Van Buren?—A. That was in January.

Q. Am I correct in understanding you to state that you had no conversation with Governor Clayton in relation to his election to the Senate of the United States prior to his first election?—A. Yes, sir; except a desultory conversation with him in Little Rock in the spring of 1869, not in relation to his own candidacy, but that his friends most likely would present him, or something of that kind.

Q. Was your support of Governor Clayton for the Senate founded on solicitations made to you, or was it volunteered?—A. It was volunteered.

Q. You say that some of the letters written you by Governor Clayton do not bear the impress of having been copied. Please state the letters, and the months in which they were written, and the subject covered by the letters to which you have alluded.—A. They were those letters which he sent from this city (Washington) and from New York, and I think, perhaps, I got one from either Saratoga or Long Branch, some country place; I do not remember the name of the place.

Q. Those you refer to bear the imprint of having been copied?—A. No; there were a couple of letters in Arkansas.

Q. During what months were they written?—A. One in June, 1870.

Q. When was the other?—A. The other I think was in either the end of December, 1870, or the beginning of January, 1871. They appeared to me not to have been copied.

Q. At what time was the convention held in Bentonville to which you have alluded in your testimony?—A. It was a railroad convention, held in May or June, 1870.

Q. You have stated that you had some conversation with Mr. Walker at that time?—A. Yes, sir.

Q. And that you showed him some letters from Governor Clayton?—A. I showed him a portion of one.

Q. Your conversation at that time must have been confined then to letters written prior to the holding of the convention at Bentonville?—A. No; they went over general political grounds. Judge Walker was an old friend of mine.

Q. But so far as related to Governor Clayton's action?—A. If you will allow me to state it, I will state it without any assistance. We were speaking about his October speech. I asked him what the democracy up there were going to do, and he said they did not know what they were going to do exactly. I urged upon him the propriety of supporting Governor Clayton, that he had made the October speech, and it was all right.

Q. What is your answer to my question?—A. My answer to that is that the letter of Governor Clayton was written to me, according to my recollection, in May or June, 1870, and it was received at Van Buren and forwarded to me by Dougherty, the postmaster there. The letter was simply of this sort——

Q. You testified already as to what was in it; the date I want.—A. I do not recollect the date.

Q. Your conversation at that time must have been confined to letters written prior to holding the convention at Bentonville?—A. No; my conversation was not on the subject of letters particularly. It was on the subject of politics, and incidentally this letter came in. It was a letter simply stating that he thought his policy was the right one.

Q. Was there anything in the letter received by you from Governor Clayton, prior to this meeting at Bentonville, authorizing you to make terms with the democracy or giving others to understand that you had authority to act politically by and for Governor Clayton?—A. Not at all.

Q. I understood you to state that the expulsion of Thornburg occurred after the impeachment of Johnson failed, and that it was this expulsion which drove the democrats and Brindle-tails together. Am I correct about that?—A. I am not quite certain about that. I did not state positively either. My impression is that it was after.

Q. Be kind enough to state what measure or proposition there was before the legislature up to that time on which there was any unity of action between the democrats and administration republicans.—A. Simply a general support of Governor Clayton and an understanding that there would be a bill passed, or rather a constitutional amendment, enfranchising the people.

Q. Anything beyond that?—A. Some general bills for the abolition of some offices, I believe.

Q. In response to a question you have stated that Clayton congratulated you in a letter on the way yourself and others were flaying Boles; I asked you if, at the time you received those congratulations, Judge Searle was not the republican candidate in the third district?—A. Not then. This was almost immediately before the election.

Q. Did Clayton mention the name of Boles in those letters?—A. No, he did not. I did not state that he did.

Q. Do you pretend to say that Governor Clayton ever wrote or said anything to you from which you were given to understand from him that he urged you to make warfare on Boles after Searle withdrew from the congressional race?—A. Except the congratulations. I supposed from that he meant "flaying them." It might mean McDonald, or it might mean the man in the moon. I understood it to include Boles. Boles and McDonald were running together.

Q. That was your own construction?—A. Yes.

Q. You say Thornburg was expelled shortly after the impeachment of Johnson; that this disgusted the democrats who had up to that time acted with the administration republicans; be kind enough to state a single measure on which the democrats and administration republican members acted in harmony up to that time?—A. The matter of Thornburg and the impeachment are two historic facts. I have not read the papers on the subject since the events occurred. I have had no occasion to look them up. I have not been posting myself for this examination, and I may be mistaken on that. I do not know precisely about the dates; I do not recollect whether the events occurred or not in one

order or the other. My impression is that the expulsion of Thornburg was subsequent. I have already answered the rest of the question.

Q. Was there any democrat who did not vote against the impeachment of Johnson? If so, state his name.—A. All voted against it and some republicans.

Q. You say you told Clayton that Whitesides, a democrat and confederate soldier, would use his influence with democrats to secure Clayton's election to the senate if Whitesides should be appointed sheriff of Crawford County. Give the names of the democratic members that it was supposed he could influence or said he could influence in consideration of receiving that appointment?—A. Pettigru, I believe, Duffie, Meek, and Minor. I think he said Neal—yes, I know he did.

Q. Did any of the persons you have named vote for Governor Clayton's second election?—A. No; but the question was then much more about impeachment than it was about the second election, because, of course, unless one took place the other could not follow.

Q. You stated that you had a conversation with Neal in which he stated to you that he (Neal) did not believe the then present managers of impeachment against Governor Clayton would act, and that other managers would have to be appointed. Did he state the facts in that conversation which led him to that belief?—A. Yes; he stated that the then managers of impeachment could not come before the senate; that a majority of the senate were away; that a quorum was not present, and that consequently they could not get before them; and for that reason, deterred by the absence of these senators, they would not attempt to procure any evidence; and furthermore that the chairman, Padgett, was a damned fool.

Q. Did this conversation between Neal and yourself occur before or after the return of the senate?—A. My impression is that it occurred before; yes, I know it did. I remember now, because the senators were then out.

Q. Do you remember the time that the senate returned, before the first managers of impeachment resigned and the second set were appointed?—A. They were away then; but the senators did return, if my recollection serves me right, while Padgett and these "larks" were still figuring around for evidence. Padgett and company did go before the senate, if I recollect aright.

Q. When and where did the conversation occur in which you stated that you told Neal that you supposed himself and Minor and Pettigru would make good managers; and who, if any person, was present at the conversation?—A. There was no one present but Neal himself; it was in my own room; we were in the habit of meeting every day.

Q. When did it occur; before or after the return of the senate?—A. It was after the return of the senate; it was generally understood that this man Padgett was a semi-idiot.

Q. How long after the return of the senate?—A. I do not recollect that.

Q. You are clear it was not before?—A. No; I think it was at the same conversation I have already detailed.

Q. I am trying to fix the date.—A. I cannot, of course, give dates.

Q. That is why I suggested whether it was before or after the return of the senate, to aid your recollection?—A. It was while the senate was there.

Q. After its return?—A. Yes.

Q. How long before the other managers resigned was it before you had this conversation with Neal?—A. They had not resigned at all then.

He was stating that he did not believe the thing would amount to anything, that they would ever present any testimony; and he then went on and said, "I do wish we could get rid of this matter." I said, "Yes, I wish we could get rid of these fools, and get somebody to do something and bring this thing to an issue," and then I suggested these names.

Q. Do you state positively that Neal objected to Pettigru being one of the new managers of impeachment before the old managers had resigned?—A. We were only discussing a hypothetical case; we were discussing all sorts of questions.

Q. You stated that shortly after you had this conversation a resolution was introduced in the house appointing three other managers of impeachment. Was the resolution authorizing this action introduced by a political friend of Governor Clayton?—A. My impression is not.

Q. When and where was it that Neal said to you he intended to give only three days to those persons that desired to substantiate the charges against Governor Clayton, after he (Neal) was appointed one of the managers? Was it before or after his appointment as such?—A. Afterward, of course. He was manager himself then.

Q. Who, if any person, was present at that conversation?—A. No one. We were in the habit of meeting alone. He was a democrat and we would not necessarily hold a mass-meeting to confer together.

Q. When and where did Neal say to you that he could make nothing out of the charges, except the Clark County judgeship; and that he had got a promise for his bills, and was going to get the committee to state that they could not find any charges against Governor Clayton, and that he was tired of this child's play?—A. That was at my room. All these meetings were at my room.

Q. In the city of Little Rock?—A. Yes, sir, in the Pacific Hotel. Sometimes Duffie and Pettigru, Minor, and myself met together, but more generally Neal and myself were alone. We did not care to have anybody else present.

Q. Are you positive that Neal came into your room on Friday, or any other night, and submitted to you a draught of a report which was afterward submitted to the house and adopted by it on the subject of the impeachment?—A. I am certain of it, because I told it to the correspondent of the Cincinnati Commercial, who telegraphed that night.

Q. When and where did the conversation with J. C. Mills occur, in which you stated that Mills gave you to understand that if Scales could control the appointments in Perry County he would be all right; and who was present?—A. No one was present. Necessarily conversations of this sort would not be held in the presence of other people.

Q. When was it?—A. In the morning.

Q. What day?—A. Just after the passage of the Johnson business. It was some time between twelve and one o'clock. I think that was the hour. It was in front of the bank there. It was on Monday.

By the CHAIRMAN:

Q. The Monday before the second election?—A. No; it was not the Monday before the election; it was on the Monday that the Johnson business was passed.

Q. What Johnson business do you mean?—A. The retiracy of Lieutenant-Governor Johnson and the simultaneous retiracy of R. J. T. White.

By Mr. McCLURE:

Q. Where and when did the conversation occur, in which you say that you urged Neal to stay away and not to vote for Clayton?—A.

That was in my own room at the Pacific Hotel. It was the Monday night before the second election.

Q. Are you positive, on reflection, that yourself, Botsford, and Duffie, the night before the election, saw Governor Hadley and told him about your understanding as to how Grady would vote, and the consideration which was to move him?—A. I have not mentioned Mr. Duffie's name; my testimony was, that Mr. Botsford drove me to Governor Hadley's house; Mr. Botsford staid in the buggy; I went into the house and told Governor Hadley that Grady was all right, and that Botsford had said that he and E. J. Butler thought they could get Whittemore all right.

Q. Did Gantt vote for Clayton for Senator?—A. He was not a member then.

Q. Do you know of any vote, democrat or republican, which Gantt influenced, or of any member of the legislature that Gantt claimed he could get to vote for Governor Clayton for the United States Senate?—A. No.

Q. When and where was the conversation between yourself and Neal in which you say that one great ground of complaint urged by Neal against Clayton was that he had not given Edwards the certificate; was it before or after the first senatorial election?—A. That was in my own room at the Pacific Hotel; but the precise date I cannot remember. It was when all this row was going on I met Neal every day, sometimes there or four times a day.

Q. Try and fix it more definitely.—A. I cannot.

Q. Was Pettigru present?—A. He was present.

Q. Was Duffie present?—A. No. Duffie was present at other interviews, when the same sort of things were gone over.

Q. Where and when was the conversation between yourself and Neal had in which you say that one great ground of complaint urged by Neal against Clayton was that he had not given Edwards the certificate; was it before or after the first senatorial election?—A. Subsequent to the first senatorial election.

Q. Before the second?—A. Before the second, and held in my own room at the Pacific House.

Q. Was Pettigru present?—A. Pettigru was present at one of those conversations; Mr. Duffie at another one. I had conversations of that sort with each of them.

Q. You say that you met Neal and suggested to him that you been led to believe that Clayton would issue a certificate to Edwards and appoint Whitesides sheriff, if the democrats would support Clayton for the Senate. When and where did this conversation occur?—A. Excuse me; I did not say that the democrats would support him. The conversation took place at my rooms in the Pacific Hotel at Little Rock. What I told him was this: we were speaking of an adjustment of the difficulties; I did not speak to him anything at all about the democrats supporting him.

Q. When and where did Neal state to you that if he would get two county courts in Sebastian he did not care; that there were a great many men who believed as he did—that most of the charges against Clayton were true—but would not come up and testify to facts, because he (Clayton) had the senate, meaning a majority of the senate?—A. Excuse me. This was a continuous deposition which I made, and I put it all at my rooms in the Pacific House; that is, so far as Neal is concerned.

Q. When did it occur?—A. I stated in my testimony that I held meetings with him pretty nearly every day.

Q. It is very indefinitely stated, and hence I desire to call you specifically to the conversation as to time and place.—A. There were several conversations. The first one was on coming down to Little Rock, as stated before, and upon the presentation of these letters. The first conversation was on the condition of the legislature at the time, and I have given them all there. Then, I think, the next topic introduced was that of the managers.

Q. I am simply asking you as to the time and place, when and where, that conversation occurred?—A. This was after the return of the senators.

Q. Was it in this same conversation that Neal authorized you to communicate the statements which you detailed to Governor Clayton?—A. Yes, sir; it was the same conversation.

Q. When and where did Whitesides tell you that he had seen the governor, meaning Governor Clayton, and that the governor thought he would give Whitesides a commission, and that he, Whitesides, was going to do all he could for Clayton's election to the Senate?—A. My language was not that Whitesides was going to do all he could for Clayton's election to the Senate; he was going to do all he could to help Clayton; at that time Clayton had the impeachment hanging over him; that was at Sprand's restaurant.

Q. About what time was that?—A. It was during the pendency of the impeachment. That was still going on. It was some time before the election.

Q. When and where was it that Neal said to you that he was meeting with Tankersly, Waters, and Hazledine with a view of agreeing on the measures which should pass through the legislature?—A. That was in my own room at the time when the question was of a truce. It was understood that he had introduced a resolution of truce, which you will recollect. A resolution was introduced into the house proposing that no more seats should be contested. At that time it was threatened by the opposition to the State administration that they would remove more Clayton men in the house. It was after Neal introduced that resolution. Neal introduced the resolution in the house, I remember, one Saturday, proposing a truce.

Q. It was after that and before the election?—A. Yes.

Q. Was anybody present at that conversation between yourself and Neal?—A. No; but Minor was present at another similar conversation; not that same one, however.

Q. Be good enough to fix the date of your return from Little Rock to Van Buren.—A. That was about four days before the certificate was issued to Edwards; that is, before the proclamation appeared—about three or four days before the proclamation appeared.

Q. You say that when you returned from Fort Smith or Van Buren to Little Rock you met Judge Bowen, who had just returned from Washington?—A. Not immediately upon my return.

Q. You said that he stated to you affairs were in a pretty bad way, and that he appeared sanguine, and said he would clean them out yet?—A. There was something of that sort.

Q. I ask you if this conversation was held with Judge Bowen before or after you held the conversation with Neal, in which he said to you that one of the causes of complaint made by the conservatives against Governor Clayton was that he (Clayton) had not given Edwards the certificate, and that when that was done it would be all

right?—A. My answer was misapprehended by you on that point. I was Clayton who told me that Bowen had gone to Washington.

Q. Was your conversation with Senator Clayton in relation to the appointment of Whitesides sheriff of Crawford County subsequent or prior to the conversation you have just alluded to?—A. That is with Governor Clayton?

Q. Yes.—A. I think it was almost simultaneous. Whitesides came with me, and as soon as I came down I went immediately to see the governor, and told him Whitesides was here, and what I thought he could do.

Q. Was it subsequent or prior to the conversation you had with Neal in which Neal said the democrats were dissatisfied with Governor Clayton, because he had not issued a certificate to Edwards?—A. The first conversation was held with Governor Clayton as soon as I arrived in the city.

Q. Was that conversation held before or after the conversation you had with Neal, in which he said the democrats were dissatisfied because a certificate was not issued?—A. I met Governor Clayton early in the morning and saw Neal about an hour afterwards.

Q. It was on the same day, then?—A. On the same day.

Q. At whose instance did you suggest to Governor Clayton that the appointment of Whitesides as sheriff "would get him, Clayton, out of a snarl and divide his opponents?"—A. At my own.

Q. Did any democratic member of the legislature say to you that if he (Whitesides) was appointed sheriff he would vote to bring about an armistice?—A. They did not say directly they would vote to bring about an armistice, but they said it would produce a more kindly feeling among the conservatives.

Q. Will you give the names of any members of the legislature that made that statement?—A. Judge Neal was one; I think Pettigru said so, too.

Q. You say that at the time you suggested the appointment of Whitesides to Governor Clayton, the democrats and Brindle-tails were in collusion in order to bring up contests in the State legislature for the purpose of throwing out the Clayton men. What contest or contests were pending at the time to which you allude?—A. There were none pending, but it was threatened by those from the Prairie district, Hicks and his two colleagues, to contest those seats.

Q. Name the Clayton men whose seats were contested and who were thrown out of the legislature under the collusion formed by the democracy and Brindle-tails?—A. I have not stated that any were thrown out. This armistice was renewed from time to time, and consequently there were not even any reports made from the election committee.

Q. What knowledge have you of the formation of any such coalition as that?—A. I have no direct positive knowledge, except that it was generally understood. I used to be writing articles against it all the time.

Q. On what facts did you base the statement that there was such coalition?—A. Upon general report, and upon the fact that it was not altogether a coaliton against Clayton men. It was composed of men partly who voted for Governor Clayton the second time for Senator. It was composed of men who had been his supporters. It was a heterogeneous mass. In addition to that, in the position which I occupied at that time I could not possibly get into their councils and caucuses, because I was opposing it.

Q. I understood you to say you were supposed to have some influence

with conservative members of the legislature. Were those men at that time acting with what are known as the Brindle-tails?—A. The persons to whom I refer were rather the conservative wing of the democratic party, Neal and Pettigru, and I think after a while they got to leaving the democratic caucus, because, they alleged, it was too hot-headed. I never understood that the Brindle-tails and the democrats met together—held a common caucus; I never understood that at all; and Judge Neal, and I think perhaps Mr. Pettigru and Mr. Minor, so they told me, after awhile ceased to attend the democratic caucuses.

Q. Did you ever have any conversation with these democratic members in relation to this coalition?—A. Repeatedly; my conversations were to the tenor such as I have already gone over.

Q. Do you not know as a fact that Thornburg was unseated as a member of the house on the 21st of January, 1871?—A. I do not, for the reason that I have not read the record, and I have not even thought of the subject until to-day.

Q. Do you not know it as a fact that what were known as the Clayton members from the Hot-Spring district were unseated on the 6th of February, 1871?—A. Yes; I recollect that.

Q. What Clayton men in the house or senate were to be expelled by the coalition formed between the democrats and Brindle-tails at the time you talked to Governor Clayton about the appointment of Whitesides?—A. The seats of Tankersley, Steele, and their two colleagues, from the Clark County district, and of Esby and his two colleagues, Morgan and Wiley, from the Prairie district. That was generally understood to be their object.

Q. Was your conversation with Neal, in which he alluded to the complaint made by the democrats that the certificate had not been issued to Edwards, held before or after the passage of the armistice resolution by the house?—A. It was before. We had several conversations on that subject, as I have already stated, and one of them was before.

Q. You say that after you had your conversation with Governor Clayton in relation to Whitesides's appointment as sheriff, he told you that he would issue the certificate to Edwards. Now, I desire to ask you whether this conversation was held before or after you returned from Van Buren?—A. It was held afterwards, immediately on my arrival.

Q. Did Governor Clayton say to you that he would issue the certificate to Edwards if Whitesides would use his influence with the democracy to bring about an armistice?—A. I have not so stated.

Q. I ask if Governor Clayton so said to you?—A. No.

Q. He did not?—A. He did not state that.

Q. You say it was understood on your return from Washington that you were to be connected editorially with the Little Rock Republican. Was this understanding had with either of the proprietors or editors of that paper?—A. It was understood between Governor Clayton, Mr. Price, and Governor Hadley.

Q. You say that General Edwards told you that Governor Clayton desired him to say to you and others of his (Clayton's) friends that he wanted you to do all you could for Edwards's election to Congress. Did this conversation occur before or after the withdrawal of Judge Searle?—A. It was afterward. We had just barely received news of Searle's withdrawal. I remember that was one of the reasons I wrote the letter to Governor Clayton.

Q. Was anybody present at the conversation between you and Edwards alluded to there?—A. I do not know whether there was or not. I do not remember now.

Q. You say that you wrote to Governor Clayton to see if Edwards had been humbugging you. Did you ever get a response from him in regard to your inquiry?—A. I never did.

Q. Did you ever write more than two letters to Governor Clayton during the month of October, 1870?—A. I reckon I did.

Q. How many?—A. I do not know; I cannot tell now.

Q. Are you sure that you did?—A. I am certain I did.

Q. What fact impresses it upon your mind that you did?—A. Because we were fighting like wild-cats up in that end of the State.

Q. Is that the only fact which impresses it on your mind?—A. It is, because in the continual whirl that was going on I was writing to him particularly about the course that I thought Britton was pursuing and about Grady's reliability, and about stories that were coming up the river.

Q. These are the things which impress upon your mind the fact that you wrote more than two letters during the month of October?—A. Yes.

Q. How many letters did you receive from Governor Clayton during the month of October, 1870?—A. Two; one was from him and the other from Barton. My recollection is the other letter was signed by Barton and in Barton's handwriting.

Q. You say you had a conversation with Senator Sarber and Sheriff Scott, of Sebastian County, a short time before the election, and that they told you the Brindle-tails had not acted in good faith as to the observance of the compromise, and that Boles and the Brindle-tail candidates were to be beaten all over the district? Where and when did this conversation occur, and who was present?—A. Scott told it to me at Fort Smith on his return back.

Q. About what time?—A. A very short time before the election; I do not recollect the exact time.

Q. You have referred to letters that have been introduced here as part of the evidence, one as letter No. 5; were the other letters you referred to received before letter No. 5 was?—A. Yes, they were.

Q. You say you were employed at the Republican office; why did you leave there?—A. Simply because of the fact that I told Governor Clayton that I was going back to practice law in Little Rock on my return.

Q. Is that the only reason?—A. That is the only reason.

Q. You are clear and distinct upon that point?—A. Yes, sir.

Q. How have you been employed since you left there?—A. I have been since a practitioner of law in Little Rock and writing for the eastern and State press—not all the time, you will understand.

Q. What were you doing during the time you were not employed as you have stated?—A. I have been contributing correspondence from this city to various eastern papers, contributing such news as I had, as is customary in this city, and at the same time corresponding for papers in Arkansas.

Q. What courts were you employed in in the practice of the law during the time you were in Arkansas?—A. I did not have any business.

Q. Then you were not practicing law?—A. I set up to practice. A man does not immediately jump into clients.

Q. Were you not in a state of intoxication during all the time during the months of September, October, and November last?—A. I certainly was not.

Q. Were you not, on account of your intoxication, sent to the county poor-house of the county of Pulaski?

Mr. BARNES. Do not answer that question. Do the committee think such questions are pertinent?

Mr. MORRILL. I rather think they are admissible on the same ground as the other.

The WITNESS. I will state that there is no hospital in the city of Little Rock. I was not well, and I was sent out there in charge of a physician. I was not regarded as being in the poor-house. That is the only hospital in the city.

By Mr. MCCLURE:

Q. At whose instance did you come here from Little Rock?—A. My own.

Q. With whom have you consulted in relation to what you would testify to since you came here; I ask whether you have consulted with any person or persons as to what you could testify to before this committee since you have arrived in the city?

The WITNESS. Can I ask what I am to understand by the word "consultation;" what I have told people, or what I have said to people, or what I have asked people, or what? I never had any consultation with anybody as to the entire evidence, because I did not know what would be asked me.

Mr. MCCLURE. Did you have as to any portion of it?

Mr. MORRILL. The question really is, whether you have talked with parties, or parties have talked with you, about what you could or would testify to here.

The WITNESS. I have had consultations with persons as to my knowledge of the case.

Mr. MORRILL. State who they are.

The WITNESS. The attorney here, Mr. Barnes.

Mr. MORRILL. Any other person?

The WITNESS. He has been the principal person.

By Mr. MCCLURE:

Q. Why have you been in a state of intoxication for the past week?—A. I do not mean to be impertinent at all, but I suppose because I took the liquor. I have not been in a state of intoxication, though, for the last week.

Q. State why you did not appear here last Friday a week ago.—A. The first couple of days I had an attack or was threatened with head troubles, and instead of staying in my room and being quiet, I had this trial on my mind, which bothered me a good deal. I had that day a good deal of work; and that was the cause of the first two days. Subsequently to that it was bothering me so, and feeling so bad, I took one drink, and whenever I take one drink I am liable to take a hundred.

Q. Were you under the advice of or consulting with a physician during the first two days of your illness?—A. Yes, sir.

Q. What physician?—A. Dr. Bulkley.

Q. Of this city?—A. Yes, sir. He sent his certificate up here, I believe.

Q. That was Friday and Saturday?—A. I have forgotten the days.

Q. Were those the first two days you failed to appear here?—A. No, not the first two days I failed to appear.

Q. I was directing your attention specifically to why you failed to appear the first two days?—A. I came in here one day and spoke to the committee, apologized for not coming, stating that I was unwell.

Q. I have simply asked you why you were not here on Friday and Saturday, the first two days you were summoned here?—A. That was

caused altogether by sickness. You mean two days before I came here to testify?

Q. Yes.—A. Precisely.

Q. Why did you leave here after you had testified and fail to report before the committee and finish your examination?—A. Simply because I did not want to insult the committee by appearing before them, not in an intoxicated condition, but I was drinking, and of course my head would not be as clear with liquor in it as without it.

Q. Where are you staying now?—A. Where the committee ordered me to go.

Q. Where is that?—A. At Providence Hospital.

Q. Did you ever live in Kansas?—A. Yes, sir.

Q. Do you know a gentleman there by the name of Haldiman?—A. I will answer that I know them; that I became acquainted with them in this way: We were in a party convention together, and I was the leader of a faction and beat them both.

Q. Do you know a man named Insley in Leavenworth, Kansas?—A. Yes.

Q. Do you know Judge Ide?—A. No, sir; I do not. I have a slight acquaintance with him.

Q. You know of such a man being there?—A. He used to be there.

Q. In what capacity did you serve with Governor Clayton?—A. I was part of the time understood to be his private secretary.

Q. During the rest of the time you were employed how were you engaged?—A. On the Republican.

Q. How long were you employed as his private secretary?—A. I really was never employed as a private secretary; that is, I never got regular compensation for it; I used to do writing for him, wrote his letters for him, and fixed up speeches and had them sent to the papers, and so on.

Re-examined by Mr. BARNES:

Q. In your reference to combinations or coalitions between the democrats and Brindle-tails in the legislature of Arkansas, do you mean to say of your own knowledge that you know that there was any such combination or coalition?—A. I do not know of my own knowledge.

Q. Did any Brindle-tail ever admit to you, or state in your presence, that there was any such combination or coalition?—A. No.

Q. From whom did you gather the fact in reference to the combination or coalition, except from statements made by Clayton men; from whom did you ascertain it?—A. I gathered it from more than a hundred different people, I suppose; I do not know how many.

Q. Do you pretend to say that you gathered it from any democratic or Brindle-tail member of the legislature, or did you gather it from outsiders? Was it a general report, or a flying rumor in the community, that you speak from?—A. I gathered it from anti-Clayton republicans and democrats, that they were acting in concert to accomplish certain results; but I never gathered it from either one of them, that I remember that they were acting in harmony on any other specific measures.

Q. Do you refer now to members of the legislature or to persons outside of the legislature?—A. Both.

Q. Name a man, either democrat or Brindle-tail, that was in the legislature who told you so, if you can.—A. Caraloff was one, I believe.

Q. Anybody else, except him?—A. I believe he is the only one that appeared to take much delight in alluding to it.

By Mr. MORRILL:

Q. Are you a southern or northern man?—A. I am a Pennsylvanian.

Q. How long have you been South?—A. Since the spring of 1869.

By Mr. BARNES:

Q. How did it happen that you went to Arkansas?—A. I went there simply for my health. I was traveling.

Q. How did you form the acquaintance of Governor Clayton?—A. I had a letter of introduction to him.

Q. From whom?—A. From McFarland, sheriff of Leavenworth, Kansas, a warm political friend of mine at that time.

Q. Was he an old personal friend of Senator Clayton?—A. He served in the same regiment, I believe.

Q. You bore letters of introduction, then, from friends of Senator Clayton to him?—A. Yes; he was a friend, or used to be a very intimate friend; so he told me.

Q. Had Senator Clayton lived in Leavenworth, where you went from, before that?—A. Yes, sir.

Q. What were the opportunities Senator Clayton, at the time he employed you, and pending your service for him, and as an editor upon the State organ, had to understand your history and know all about you? State them.—A. He got pretty much all from myself.

Q. Do you know whether he visited Kansas after the employment of you in any way?—A. I do not know.

Q. Did, or did not, Judge McClure, who was the chief editor of the Little Rock Republican, have an opportunity to know about you at the same time?—A. I do not really know. I do not know whether he had any opportunity. I suppose he could have done so if he desired. He was seeing my name in the papers all the time in Kansas.

By Mr. MORRILL:

Q. How long were you on the paper?—A. I was a contributor to it from about August or September, 1869, up to about September of last year, contributing sometimes editorially and sometimes simply as a correspondent. That was only fugitively, you understand. From about January all through the fight down there I was a regular editorial contributor.

By Mr. BARNES:

Q. Who wrote the chief editorials while you were upon the Republican?—A. Do you mean the largest number?

Q. Yes, sir.—A. I suppose I did.

Q. Who wrote the other articles?—A. Sometimes we had outside contributors. When Judge McClure was through with the management of some business that he had, he wrote.

Q. Was he judge of the supreme court at the time he was writing the articles?—A. Yes, sir; chief justice. He was a regular editorial writer, at a salary the same as I was. I so understood.

Q. Tell us what Clayton knew, if anything, in reference to your habits when you commenced business for him or afterward. Did you disclose, or was he informed in reference to, your habits? Did you tell him anything about your misfortunes?—A. He knew I got tight twice a year.

Q. Can you inform us whether he contributed in making you tight any of these times?—A. No; I have nothing at all to say about the social relations between Governor Clayton and myself.

WASHINGTON, *March* 28, 1872.

A. A. C. ROGERS sworn and examined.

By Mr. BARNES:

Question. Where do you reside?—Answer. At Pine Bluff, Arkansas.

Q. What length of time have you resided in the State of Arkansas?—A. I have resided there for eighteen years, with a little interruption of part of two or three years.

Q. Have you resided at the same place all the time?—A. Yes, sir.

Q. What has been your occupation or business during the time you have resided in the State?—A. A merchant.

Q. Have you, at any time, held any office or public trust in said State; and, if so, what office or trust have you held?—A. I never held a State office of any kind, I believe. In 1864 I was elected, under the attempted re-organization there, as a member of Congress, but was not admitted. Again, in 1868, I was elected and served a term. That covers my official course.

Q. Were you a candidate for Congress in 1870?—A. I was.

Q. In what congressional district?—A. The second district of the State.

Q. Who was your opponent?—A. Oliver P. Snyder.

Q. To what extent are you acquainted in the State in which you reside, and particularly in your congressional district?—A. My acquaintance in the four or five counties immediately adjoining mine is very extended; I am acquainted with almost everybody. Throughout the district I have a very extended acquaintance.

Q. Are you acquainted with Senator Powell Clayton; and, if so, how long have you known him?—A. I have known Senator Clayton since the fall of 1863, when he came to Pine Bluff at the head of the cavalry forces.

Q. Is he a resident of your county?—A. He is considered so. His plantation is there, and I presume he calls it his home.

Q. To what political party do you adhere and what have been your political principles heretofore?—A. I was originally a whig. When the war came I was a Union man, and continued so. I was in favor of the re-election of Mr. Lincoln; since which time, owing to the course of events in my State, I have been what is denominated by some as independent, taking my own course, running as "Mr. Rogers," although nominated once or twice by the democratic party.

Q. Did you ever have or hold any conversation or conversations with Powell Clayton while he was governor of the State of Arkansas touching the congressional election and the candidates for Congress, or any of them, in your congressional district, or any other congressional district in said State, prior to the election of 1870? If so, when and where? And state, as near as you can, the purport of said conversations, and what gave rise thereto.

By Mr. NORWOOD:

Q. You understand the subject-matter of this investigation?—A. O, yes; it is a matter of notoriety. I would answer, then, that I had several conversations with Powell Clayton in reference to the election in the State, generally in reference to this election in my district, and also in reference to the election in the other two congressional districts. A part of these conversations was had at a time when perhaps I would not feel at liberty to detail them in full. Upon one part there was no restraint, as I know. I think the first conversation I had with Governor Clayton, now Senator Clayton, was in October, 1869, soon after he made a little

speech there at the fair-grounds, perhaps about the middle of October. The conversation turned upon some events that had transpired touching the election which was to come off the next year—the election of 1870.

Q. Are you speaking of a conversation held in 1869?—A. Yes, in reference to the election which came off in 1870. In that conversation allusion was had to a meeting in the city at which I was present, which meeting was called, as I understood it, for the purpose of considering a sort of compromise in reference to fixing up for that election. Judge Bowen came into the committee-room, where the meeting was held. I would remark that I was stopping out at a friend's and the committee sent for me to come down. I went down to the law-office of a gentleman whose name I will not give.

By Mr. BARNES:

Q. I would prefer you would give the whole of it. I want the names of all the members of that meeting.—A. The law-office of Watkins & Rose. When I arrived there I found quite a number of gentlemen already there. Soon after entering Mr. Bowen came in with a written proposition to the meeting, the substance of which was about this——

By Mr. NORWOOD:

Q. Do you know that that proposition was in writing?—A. I do. It was in writing, and he made a verbal one besides in explanation of it.

Mr. NORWOOD. You can give the verbal explanation.

The CHAIRMAN. Give the verbal statement but not the contents of the writing. (To the witness.) You understand that so far as the contents of the paper are concerned you are to say nothing about that. State what was said.—A. The statement was that a combination should be made with the democrats, so-called, and republicans acting through Mr. Bowen. During the explanation which Mr. Bowen was giving of the matter the question was asked if he had authority from Governor Clayton to make such a statement. He said that he was right from Governor Clayton, and that Governor Clayton approved it, and that he was there in his interest. The proposition briefly stated was about this: that Governor Clayton, upon his part, was to control the election mainly; that they were to elect a legislature friendly to him for the Senate of the United States; and in consideration for that he was to recommend to the legislature such measures as would relieve people from the disfranchisements of the Constitution. The detail was about like this: in the counties where Governor Clayton's friends had the undoubted majority he was to name the candidates—select them; in the counties where the democrats or conservatives were in the majority, so great that he could not control it, then they were to name the candidates, and this legislature thus elected was to do just what I have indicated, namely, send Governor Clayton to the Senate of the United States, and the people were thereby to be relieved from not only this burden of disfranchisement, but taxation and several other matters were mentioned. That is, I believe, briefly the proposition. I would remark, however, that for some reason unknown to me, for I never asked, the proposition embodied this proviso—it was the language of Mr. Bowen—that the Hon. A. A. C. Rogers was to be present and acquiesce in this arrangement.

By Mr. NORWOOD:

Q. That was yourself?—A. That was myself. Hence I was sent for, I suppose, at my boarding-house or where I was stopping with my friend,

Mr. Mills. After some preliminary talk, or rather further talk, upon the subject, it was said they would meet at Mr. Garland's office that night. The meeting was had at night. I attended it. The proposition was made to the meeting; there was consultation had, and a little speech made by one or the other, and finally my name was called. I dissented from the proposition, which they chose to accept, took my coat and hat, and left. Previous to leaving, however, the proposition had been got up that Judge Rose should see Governor Clayton himself in person, and when I got up to leave, Mr. Harrold leaving with me, a friend of mine, the lights were blown out, but the president of the meeting, Judge Rose, remarked that there were other matters to be attended to, and he hoped the meeting would not break up. I left when they were relighting the candles, and what transpired afterward I did not know until the next day at the fair-grounds I met Governor Clayton. He drove up and got out of his buggy on the grounds. I went over to him, I think, and in his friendly and peculiar way he said, referring to the meeting the night before, he supposed it was about the best thing they could do, after speaking about what had transpired, and asked me if I thought he could trust these men. I told him that I thought he could, and mentioned one or two of them to him personally and told him what they said. Said I, "A few you can trust upon their personal honor, and all you can trust because their interest runs in that way." "Well," said he, "it is about the best thing I can do. My opinion is it is time we got rid of this trouble." I acquiesced in his statement, but remarked that I had left the meeting, that I had not been a party to it, and therefore was not bound by any agreement it might make. I mentioned that to Judge Bowen at least, and I think to Governor Clayton, that I had left the meeting at Mr. Garland's office. That, I believe, covers the substance of what transpired.

By Mr. BARNES:

Q. Did that proposition also include his right to dictate or to control who should be elected to Congress?—A. It certainly covered all the districts. All the machinery was to be left largely in his hands.

Q. That proposition I understand you as saying you did not assent to?—A. I did not, and left the meeting, as I have stated, before it concluded its labors, or what it had before it.

Q. Was there anything in reference to registration proposed in that conversation?—A. It was based upon the fact that registration was almost in the hands of the governor in that State, and it was with a view to have his aid in that regard that I suppose the democrats entered into it. Indeed, I know that was the reason the conservatives accepted the proposition at all. To get relief they were willing to do almost anything, as I understood it and as I understand it now.

Q. State the names of the persons present at that meeting, and their political principles.—A. Shall I answer that question? That involves, perhaps, a delicate point.

The CHAIRMAN. Yes, sir; answer it.

Mr. NORWOOD. There is no objection to it at all.

The WITNESS. The following were present: Judge English, Judge Watkins, Judge Rose. General Fagan, I think, was present. I know he was present at the night-meeting; I think he was in the afternoon. Mr. Harrold was present; Mr. A. H. Garland; and, I think, Thomas Fletcher. There were others whose names I do not now call to mind. Colonel Terry was present at night.

By Mr. BARNES:

Q. What were the political principles of the gentlemen you have named?—A. At the time?

Q. Yes, sir.—A. They were considered democrats, or conservatives they call them there. Most of them, I believe all of them.

Q. Were they, or were they not, the leading lawyers and prominent men of the democratic or conservative party of the State?—A. They were considered the head of it.

Q. What republicans, besides Judge Thomas M. Bowen, were present at that meeting?—A. There were none.

Q. Was Judge Bowen present at the day and the night meeting both?—A. He was not present at night. He submitted his proposition, which they took into consideration.

By Mr. NORWOOD:

Q. To be considered at the night-meeting?—A. They adjourned to consider it at the night-meeting, and with the view to confer with Governor Clayton personally, as I understood.

By Mr. BARNES:

Q. Who is Judge English?—A. Judge English was one of the supreme judges of the State previous to the rebellion. He went out with the rebellion, or with the armies of the rebellion.

Q. Who is Judge Watkins?—A. Judge Watkins was also one of the supreme judges of the State. He, too, went out with the rebel forces.

Q. Who is Judge Rose?—A. Judge Rose at that time lived in the farther part of the State, and I knew very little of him. I do not know what his course was. He is understood, however, to be intensely radical upon the subject of democracy, in that direction.

Q. Who is his law-partner?—A. Judge Watkins.

Q. He is a man of great distinction in the State?—A. O, yes. The firm is considered one of the very best in the State—one of the ablest.

Q. Who is Fagan?—A. General Fagan was a general in the rebel army.

Q. Who is Harrold?—A. John M. Harrold held some position, I do not know what. He, too, was a rebel.

Q. I will ask you whether he was or was not at that time one of the editors of the Gazette, at Little Rock?—A. He was.

Q. A democratic paper?—A. Yes, sir, the organ there.

Q. Who is Colonel A. H. Garland?—A. Colonel Garland is a lawyer of considerable distinction, known to lawyers here in the Garland case, if you remember, before the supreme court—one of the first lawyers in the State, and one of the most reliable gentlemen in the State, I will say.

Q. Was he not a confederate senator?—A. Yes, sir; originally a Union man, I believe.

Q. Who was Thomas Fletcher?—A. Thomas Fletcher was an old sheriff there—a lawyer and a very clever gentleman. He, too, was opposed to the war, but finally went out with it.

Q. Who was Colonel or General Terry?—A. He was originally a secessionist and went as far as anybody, I suppose, in that direction, excepting to fight. I do not know that he ever fought any.

Q. Was he, or was he not, a man of great distinction in the State?—A. A man of wealth, of some influence by virtue of his wealth, and some position; a man, too, I might remark, of very fair ability. I never was intimate with him, and therefore might not appreciate him in that regard.

Q. What was to be done with the other portion of the republic: party—McDonald and his friends? Was there any allusion or prop sition as to that?—A. There was nothing said of that at that time. do not know that there was any split particularly in the party, exce so far as the liberal republicans had held some meetings there.

Q. Recurring to the question as originally propounded to you reference to the conversation or conversations held by you with Sen tor Clayton, then governor of the State, in reference to the congressio al election in your State and the candidates, I think that you have n answered that in full, but you have given the conversations with t governor at a fair-ground touching the interview at Rose's office?—. I had other conversations, I said—a good many. I gave one.

Q. If you had other conversations touching the congressional ele tions or the candidates for Congress, state them.—A. I had two oth conversations with Governor Clayton, and I think only two, previo to the election.

Q. Give them.—A. Just before entering upon my canvass in tl district, I went up to see Governor Clayton at his house. I remain for an hour or two in his gallery. It was pleasant weather, early in t fall, or summer, probably. The conversation was long, and ran different directions. I said, however, that I had called to know wheth or not we were to have a fair election; that I did not want to spend n time going into a canvass where the cards were stocked upon me. T governor smiled, and was pleasant enough; said that it very mu depended upon circumstances as to what course he would pursue in t election. We were talking particularly in reference to my own electi at that moment. I told him that I had no interest in the other matt at all; that I considered myself out. I was an outsider.

By Mr. NORWOOD:

Q. No interest in what?—A. In the other congressional elections the other districts. He seemed to regret the state of things; old associ tions and friendships I suppose were called up with both of us. Final he remarked to me, "Rogers, damn it, I wish you were in another di trict." Said I, "Governor, how about that?" We drifted off then up Snyder, my opponent; said I, "I do not think Snyder has been ar better friend to you than I have been." Well, he said, he got the thir sort of mixed up and had done everything he had ask him to do. "H has been my friend here in my troubles in the legislature, and all th sort of thing; and damn it," says he, "I wish you were in another di trict." The subject then drifted upon other districts. There seemed be some little feeling in reference to Roots's district, the first distric Roots and Boles were then represented, and we called them by the di tricts. Coming to Boles's district, he appeared a little more factio than about Roots's district, but did not say much about it, though he l me to believe that he was not friendly to Roots. In reference to Bol he seemed to be very bitter, and in the conversation said that, "As f Boles, he will never get back to Congress again as long as I am here or words to that effect. We came back to my district. I said to hi that I wanted simply to know whether we were to have a fair electic and a fair registration. Then came up this original proposition again Bowen's. I told him, "The democrats will carry this thing out. I do n think there is any question about that." Says he, "Do you think so I said, "I think there will be no trouble about it at all." Says he, "Dan them, I am afraid to trust them;" and the conversation became gener Then coming back again to my district I told him, "I want to kno

myself, in the first place, and then I want to know for my people; they will ask me, as your personal friend, what Governor Clayton will do about this thing, because he has everything in his own hands, and I want to go before them with some sort of assurance that we shall have a fair election. I do not want to spend my time and money fruitlessly, and I do not want to deceive them as their leader in this canvass." Says he, "It very much depends upon circumstances," becoming sometimes mad and sometimes alternating with a bad state of feeling and a good one. First I would talk him up, and then down, as I thought. I left him by saying, "Shall I say to the people that you will hold on and see what course the development of events may take?" Says he, "Yes, I guess you may do that;" and with that we parted. I met him again just before the canvass for the election closed.

Q. What date was that second conversation which you have just got through with?—A. I could not state positively the month, but I think it was in August. The election came on in November.

Q. Had registration closed?—A. Registration does not begin there until just before the election and closes with the election or five days before, and the last five days before the election are devoted to a revision of the registry.

Q. So that it closes with the election?—A. No, sir; it does not; the law requires six days for revision.

By the CHAIRMAN:

Q. Had Edwards and Boles been nominated for Congress then?—A. No, sir. Boles was a candidate, however. Searle was then in the field a candidate, understood to be what we called a "minstrel" there. Edwards's nomination was a long time afterward; indeed, there was no nomination; the convention met and dispersed, and they just allowed Edwards to run.

Q. Neither one of them had been nominated at the time of this conversation?—A. No, sir.

Q. The conventions were held after this conversation?—A. Yes, sir. I took very little part outside of my district in public matters, and only there so far as my people wanted me to.

By Mr. BARNES:

Q. You think, however, it was in the month of August that you had the second conversation with Governor Clayton?—A. I would not state it positively; but I think so.

Q. You are satisfied, however, that Boles was a candidate and that Searle was then in the field?—A. O, yes. There was a good deal of fuss up there in the district about who should get the nomination and so on, and also in Roots's district; but who the conventions actually did nominate I could not state.

Q. And he expressed the hostility to Boles that you have stated at that time?—A. Yes; I thought it was very marked.

Q. State what was his exact language of hostility to Judge Boles.—A. Discussing more or less the candidates with a view to myself, (I understood that Governor Clayton would probably go to the Senate and wanted friendly aid in the House—men friendly to himself—and that matter was discussed,) at least discussing these men I thought had reference to that. He spoke lightly of Roots, and came to Boles with a good deal of bitterness, and to employ the language he said about this: He would be damned if Boles would ever get to Congress as long as he was there: "As to Boles, he will never go to Congress," or words to that effect.

Q. Do you remember whether Edwards's name was spoken of in con nection with the race for Congress in Boles's district at that time; doe your memory serve you?—A. I think that Mr. Edwards was not men tioned at all. If so, he was mentioned as a separate democratic candi date. It may be that he was out.

Q. You do not pretend, then, to be definite in reference to Edwards?— A. I cannot. Searle was the man that was troubling them with Bole in the district for nomination or election, I could not say which. I thei pass to the last conversation I had with Governor Clayton that I re member—and it was the last—and I think this conversation will cover al that I said to him—all the interviews I had with him. Seeing tha registration was being most awfully managed, as I thought and th people thought, and receiving letters from various parts of my distric in reference to the matter, at the instance of friends and following some what my own judgment, I left the canvass at Monticello, in Drev County, below where I live, and went to Little Rock to see Governo Clayton, to know if something could not be done to relieve the peopl from the oppression of these registration-laws.

By the CHAIRMAN:

Q. What time was that? Fix the time.—A. The interview was short That was about two weeks previous to the election. It was about th 1st of November. I think I had only three appointments to make afte that. Perhaps it might have been three weeks before the election. found the governor in very bad humor, and he treated me less kindl than he had done before. I went into his little private room in the gov ernor's mansion and we talked a while. His feelings of kindness an bitterness would alternate, sometimes getting bitter and then becomin more good-humored. I told him about Union County particularly, county that had been almost entirely disfranchised. Out of 2,200 o 2,300 votes, I think it voted about seven or eight hundred. Says he "I have no control over my registrars, and I cannot do anything with it. Says I, "Governor, you have attempted to control them in two or thre instances; you have removed registrars and appointed others, and nov you tell me you cannot do it." Says he, "Damn it, I do not know bu what I did wrong, but the damned rebels there ought not to vote anyhow. Says I, "Governor Clayton, you are not the constitution of the State It is your business to enforce the law, if it dooms every man in the State and when you assume to be the constitution, you assume too much." called to his mind the fact that two hundred sworn certificates ha reached me to the effect that persons had registered and were entitle to vote, but had been denied that right in Union County. Says he, " have not got time to correct it now." I think he had nineteen day Says I, "You have. You can give notice that they shall all meet at th court-house, and, under the system in operation, get them registered i that way." Well, we talked about it, and he would get mad and the in good-humor, and I remonstrated with him all the time about the re istration of Union County. I then, finding I could do nothing for th county, called his attention to Columbia County, a large county whe registration was equally as bad. I then came to Chicot County. I to him that they were registering those railroad-men down there, twel or fifteen hundred railroad-men that they were getting down there. do not know how many there were really, but the votes show. Said h "Have you any knowledge of the fact?" Says I, "I have no person knowledge. I have not been in Chicot County. I was at the borde I left there and came here to acquaint you with these things. Gentle

men say so whose veracity cannot be called in question, and they have stated these facts to me and I bring them to you as facts. I could give you the names of the gentlemen. You would then know them. You do know them, and you know me, and I ask you simply to send somebody down there to stop that thing." Then he flew off again, saying that he had no right to control the registrars; that he thought he had, as a whole, pretty decent ones. Said I, "You have a set of perjured ones. Look at this man Sickles. He does not live in the county, as I understand it. He is controlling the railroad-men down there that he has in his employ, and he will run them in for this election. He is registering them every one." Said I, "Why do you not send down there and stop it?" He said it was wrong, but finally he declined to do anything at all. Then we came to Jefferson County, where I live. Coming up from Pine Bluff, my little town, to Little Rock, on the day I met him, I had met a parcel of negroes whom I knew, and they said they had registered the night before at a meeting on the other side of the river, and outside of their township. They asked me if I thought it was legal. I waived any expression of opinion about it. I called the governor's attention to that; he said it was all very wrong. Said he, "You know it?" I said, "I will give you the names; I will prove it by the registrar and the leading officials in the county, who were present, and by the negroes. Now, all I ask of you is simply to act in the matter." He did not act in the matter, and the thing passed off. I said to him upon leaving—the conversation was private; our relations had been very friendly from the time he came from the army up to that time and the year before that, so far as I know—I asked him if the conversation was to be considered private, and he said not. He said, "Tell it as you please." I left him rather abruptly, and I think I had no conversation with him after that on the subject.

By Mr. NORWOOD:

Q. You say that in Union County there were about 2,200 voters, and about 700 voted?—A. I would not state the exact number, but the vote was a very small one; not half, I think.

Q. What is the politics of that county?—A. The county voted democratic in the last election before, very largely so.

Q. What is the politics of Chicot?—A. Chicot is all one way pretty much. There are, I suppose, about 200 conservative or democratic votes in the county; the balance are negroes; there are very few white men in the county.

Q. How is Jefferson?—A. Jefferson ought to vote about 2,000 white men, under a fair registration; I think they gave us eight or nine hundred.

Q. What is the politics of the county?—A. The white men are nearly all one way and the negroes the other, the negroes predominating.

Q. What is the majority?—A. The majority in that county at the last election was, I think, 1,600 for the republicans, so called.

Mr. BARNES. The Senator means to ask you what is the majority under a fair registration.

Mr. NORWOOD. I mean, what are the politics of the county if every man entitled to vote voted?—A. If every man entitled to vote in that county were to vote, the republicans would have the county. I suppose the majority would be from 800 to 1,000, under a fair registration. I think there are about 2,000 white men in the county.

By Mr. BARNES:

Q. You are well acquainted in Chicot, I believe you stated. How many legal voters were there at the November election, and prior thereto, in the county of Chicot?

By Mr. NORWOOD:

Q. Do you know what the vote was?—A. I do.

The WITNESS. My judgment is, that there are not over twelve or thirteen hundred voters in the county, all told, and the vote was twenty-seven hundred—something at the last election.

Mr. NORWOOD. What county?—A. Chicot. The democrats and conservatives vote about 170 to 200, as they registered them. That vote was given. The entire vote of the county at the last election was, I think, twenty-seven hundred odd, giving twenty-two hundred and odd majority to my friend, when, I think, there was not exceeding 1,500 votes, all told, and my judgment is that there are not over 1,200. I am talking from the previous votes and the auditor's report, as well as the Census Report.

Q. Is that the county where you informed him Sickles, a non-resident, was controlling this large railroad vote?—A. I called his attention to it very warmly; had quite a discussion about it; told him I was informed by parties, whom I would believe anywhere, of these frauds. I would state further, in reference to Columbia County, since my mind has come to it, that the registrar there was never in the county in the world before he was sent there, a fellow from Illinois named Ryan—just a boy. I would state further that the registrars of many counties did not live in the counties that they were appointed to register.

Q. Does the law require them to reside there?—A. I do not know what the law is. It ought to do it. I will state furthermore, that, notwithstanding Governor Clayton said he could not remove, and did not have the power to remove, them, he did remove two or three.

By Mr. BARNES:

Q. Who was removed?—A. He removed Judge Alexander, in Ouachita County, after the registration had gone through satisfactory to both parties alike. He sent a man down there, by the name of Thompson, who lost his poll-book—that is, the names of who were to vote—and when we got after him under the enforcement law the fellow ran away, and I never heard of him since. I called his attention to Hempstead County, where he removed a registrar.

Q. Whom did he remove and whom substitute?—A. An old gentleman by the name of Hicks, I think.

Q. A resident of the county?—A. He was.

Q. Whom did he substitute?—A. An old man by the name of Beldin.

Q. Where did he come from?—A. He lived there.

Q. Was he any kin to Beldin, the senator from the Hot Springs district?—A. The uncle or father, I do not know which.

Q. I believe you stated that you called the attention of Governor Clayton to the complaints in the county of Hempstead in reference to registration, did you not?—A. Yes, sir.

Q. Was there any trouble in reference to registration in the county of Hot Springs?—A. There was a good deal, almost no registration at all.

Q. Do you remember who registered Hot Springs County?—A. I think there was a fellow from another county by the name of Cotton.

Q. Z. L. Cotton?—A. Yes, sir.

Q. Where did he live?—A. I could not state of my own knowledge, but it was always understood that he lived in one of the counties above.

Q. Out of the district?—A. Out of the district.

Q. Was the name of the man you alluded to as having registered in Chicot County Jackson E. Sickles?—A. It was Sickles, the railroad man down there. I do not know him, and do not want to know him.

Q. Was he a contractor on the railroad?—A. I understand he was a railroad man down there; it was a matter of notoriety; I do not know it personally.

Q. Where did he come from? Had he been in the country before his registration there?—A. I do not know that again definitely. I only know from common report; he is a New Yorker, as I understand.

Q. Did you ever hear of him in the country before registration commenced there?—A. I had not. Perhaps I had, too, in connection with railroad letters from New York, and so on; I think the same man.

Q. Where did he live, or where did he make his headquarters?—A. That I could not answer you positively again. I only know from general reports.

Q. Did he not make them at Little Rock?—A. I could not tell you that. I never had anything to do with but few of those gentlemen.

Q. What relation did he bear to Senator Clayton and Judge Thomas M. Bowen, if you know?—A. I do not know except so far as Bowen is concerned.

Q. What were they as to him?—A. Bowen was connected with that Ouachita railroad down there, and this fellow was in some way connected with it, and in that way they were connected. The connection Senator Clayton had with it, I do not know if he had any.

Q. I will ask you what you know, if anything, in reference to Senator Clayton's October speech being the origin of the meeting or meetings which were held at Little Rock, which you have alluded to in your testimony?

The WITNESS. I think it was stated, and I think you will find that my language was, that it grew out of it.

Q. That the October speech grew out of it, you mean now to say?—A. I suppose Mr. Bowen stated it in this conversation. I know it was a matter about which I supposed there was no question.

Q. Have you any personal knowledge, if so state the facts, in reference to Governor Clayton having a personal interest or owning an interest in any railroads in the State of Arkansas prior to his election to the United States Senate?—A. I know nothing about that question.

Cross-examined by Mr. MCCLURE:

Q. Whom did you support in 1868 for President of the United States?—A. I supported Seymour and Blair.

Q. Were you in the canvass of 1868?—A. I was a candidate for Congress.

Q. Were you elected upon that issue?—A. No, sir; I outran the ticket; I believe throughout the entire district.

Q. How many votes did you receive in Drew County?—A. I cannot tell you definitely now.

Q. Can you approximate to it?—A. Twelve or thirteen hundred, it seems to me.

Q. How many votes were cast in the county?—A. There were some, I think, but very few, opposition votes, but the exact vote I cannot give you; there were very few to what I received.

Q. Did the balance of the democratic ticket receive about the same vote you did?—A. I think, as I have stated, I outran the ticket in nearly all the counties.

Q. You say you have resided at Pine Bluff for eighteen years, save a short interval; where did you reside during the time you were not at Pine Bluff?—A. I was part of the time, or my family were, in Chicago. I

was at home, where I voted at every election during the eighteen years, except one.

Q. How long did you reside, and your family, at Chicago?—A. We were there three or four years—four probably.

Q. Had you a residence there?—A. I had several of them; several houses.

Q. (By Mr. McCLURE.) At what time in 1868 did you return to Arkansas?—A. I think it was in August, early in August.

Q. Did you bring your family with you when you returned in 1868?—A. I did not.

Q. At what period did they follow after you?—A. I brought them in the fall, as soon as I thought it was safe to bring them back at that season of the year. When I came I did not think it safe, and when I thought it was safe they came.

Q. What do you mean by safe?—A. I simply mean the climate. We go away and spend the summer there, as you know very well.

Q. Have you at any time been examined as to what you should testify to before you appeared upon the stand?—A. No, sir; I have been asked questions in reference to this thing, what I know about it.

Q. Who asked you these questions?—A. Colonel Barnes here, after I came to this city.

Q. (By Mr. McCLURE.) Were you acquainted with Colonel Barnes before you came here?—A. I was, very well.

Q. Did you volunteer your information, or did Colonel Barnes ask you for it?—A. Colonel Barnes asked me what I knew about it.

Q. Did he say he was going to have you summoned, before you told him what you knew about it, or afterward?—A. I do not remember whether before or not. I would not state that he did not.

Q. What friends suggested to you in Arkansas that you ought to come here?—A. I think John A. Watkins. I told him I could not volunteer myself as a witness in any case; that I never had done so.

Q. Did any person else?—A. Directly, yes, sir. I think Mr. Met. L. Jones.

Q. Was Governor Clayton present at the meeting in Rose's office to which you alluded?—A. If I have not stated he was not, I now state it.

Q. You say this conversation occurred some time in October of 1869?—A. My recollection of it is that it was during the fair there, and that, I think, was in October. I know I had a talk with Governor Clayton on the fair-grounds the next day after the meeting.

Q. In that conversation that you had with Governor Clayton at the fair grounds on the next day after the meeting at Rose's office, did you detail to him the fact that Bowen had submitted a proposition in writing, and submitted a verbal explanation of it, of his understanding of the proposition itself?—A. No, sir.

Q. You did not detail that to Governor Clayton?—A. I did not think it necessary, because he started out in the conversation in a way that seemed to indicate that he knew all about it.

Q. Now go over that conversation. What did he say to you, and what did you say to him?—A. I have stated, and now repeat, that I approached Governor Clayton after he got out of his buggy on the fair-grounds, and pretty soon the subject of the meeting came up.

Q. Who introduced it?—A. I think Governor Clayton did himself.

Q. By saying what?—A. I think he said, "Well, old fellow, I think that was about the best thing I could do, was it not?" Said I, "Clayton, yes; I think it was all the way;" and then the conversation ran as I have stated.

Q. I will ask you to state, upon reflection, if that remark did not

relate to that October speech that had been made?—A. I certainly understood that it referred to that meeting which had occurred the night previous.

Q. State the conversation that followed it, so that the committee may judge as to whether it referred to the October speech or the meeting.—A. He asked me in the conversation, distinctly, if I thought, to use his exact language, "those damned fellows would stick."

Q. Were any persons named?—A. He gave me to understand distinctly that it had reference to the meeting on the night previous; and upon that I went forward with the conversation with him upon that presumption and understanding; and when he asked me that question I told him I thought they would, that he could rely upon some of them for their personal honor, and all of them because their interest lay in that direction.

Q. Do you recollect what day of the fair it was that this last conversation was had?—A. I do not. I have an impression that the fair commenced on the 12th, but I would not state it as a fact; it was during the fair.

Q. Was it later than the 12th that the conversation occurred?—A. The opening speech had been delivered that day, or was being delivered during our conversation, by Judge Sutton. I think, however, the fair-grounds had been opened a day or two before, but I could not tell you definitely whether it was opened or not.

Q. Do you recollect the day of the week?—A. I do not.

Q. Is there any circumstance that fixes in your mind whether it was along about the first or the last of the week?—A. My recollection is that the fair commenced on Wednesday. I am not certain, though, but it is a matter of fact, and can be had very easily, I suppose, and I would be very glad, if the question is important, to answer it, but I cannot.

Q. Do you recollect whether the October speech was made before or after that conversation?—A. I was taxing my mind upon that subject just at the moment. The liberal convention was held there, but at what time I cannot recall to my mind now. It occurs to me it was all in about a week. I am stating that to get at the thing myself. Soon after that followed the speech of the governor, and the fair followed or went before; my judgment is that it followed.

Q. Do you say that the October speech was made before the conversation to which you have alluded?—A. I do not say it. My impression is that the speech of Governor Clayton had called out this meeting. I think it was so stated, and it was so understood. I think that that meeting occurred after the October speech, though I am not certain about that, nor am I certain about the dates.

The CHAIRMAN. The question asked was whether the conversation on the fair-grounds was after the speech.

The WITNESS. That is just what I was trying to call up. I cannot tell you.

Q. (By Mr. MCCLURE.) If it should so happen that the speech was made after, then you are mistaken as to the reasons you have assigned for the calling of that meeting?—A. I did not say what the reason was. I said my recollection was that the meeting was called in view of that. It might have been in reference to that, and my memory is now that it was, but I do not think I have stated it definitely. I rarely went to Little Rock, as is known.

By the CHAIRMAN:

Q. I think you used the language distinctly that the meeting was in

consequence of the speech.—A. I thought so, and still think so; but it occurs to the contrary, of course I shall be very glad to know it.

By Mr. McCLURE:

Q. The speech would have been before the meeting, would it not?—A. Yes, sir; I remember this very distinctly; it is the thought of my mind now, and has been, and was then, that I said I was unwilling to take any man upon a mere speech. I wanted him to plant himself upon a platform upon a statement that would show where he stood and what he would do. I think one of the reasons I gave, as I went out of that meeting, was, that I would not take a man upon the mere speech. Whether I said this to Bowen or not I could not say.

Q. Were you present when this speech was made?—A. I was not, but was there a day or two before that and had a talk with Governor Clayton. I think the speech was made the next night, perhaps. It may be, therefore, that it was immediately after this that the speech was made; but as to the facts in regard to that I make no statement.

The CHAIRMAN. (To Senator Clayton.) We are trying to ascertain whether this conversation was in relation to that speech. Now, you know the date of that speech?

Senator CLAYTON. Yes.

Mr. BARNES. My client states that speech was made after the meeting at Rose's office.

The CHAIRMAN. (To Senator Clayton.) What date was the speech?

Senator CLAYTON. The 13th of October.

The CHAIRMAN. (To Mr. Hodges.) Do you agree upon that?

Mr. HODGES. It is my recollection that the 13th of October is the date. I do not remember dates as well as I do circumstances. The speech was not made at the commencement of the fair.

The CHAIRMAN. That is not a question we are determining now. (To the witness.) Do you know what day the fair commenced?—A. I thought it was about the 12th, but it seems since this conversation it comes more to my mind than it had done. The liberal republican matter was the matter I had in my mind instead of this speech that occurred before this meeting. Then followed this meeting, and then Senator Clayton's speech, and then I left before that. (To Senator Clayton.) The conversation I had with you was before you made your speech, it seems.

Senator CLAYTON. Yes.

By Mr. McCLURE.

Q. Then I understand you to say now that the October speech had not been made at the time you had the conversation with Governor Clayton at the fair-ground?—A. Taking the date which you furnish here, my judgment is that it was not. It was the liberal republican meeting that impressed itself upon my mind that came before this meeting.

Q. Then that theory of yours that was advanced in your examination-in-chief, in which you said that Governor Clayton's October speech led to this meeting, is erroneous?—A. I said I thought it led to it. I say this, that with the refreshing that my mind has had here by parties who knew the facts and failed to give them to me when I was struggling to get them, my statement was erroneous.

Q. Then you are mistaken in what you said at that meeting at Garland's office, that you would not take any man's speech for it, and would not be bound by it?—A. My recollection is, that I have referred to that speech as having been made. I now state, from the refreshing my mind has upon the speech, that the October speech, so called, was not made,

but that it was the liberal convention which preceded the whole of it, and with which my mind connected it.

Q. Then you are mistaken in what you said at that meeting at Garland's office, that you would not take any man's speech for it, and would not be bound by it?—A. Or mere statements of any man; that was the thought I had.

Q. Was there not a very considerable excitement in Arkansas upon the subject of franchise, at the time you alluded to, in October of that year?—A. There was.

Q. Have you means of knowing as to whether the republican party was a unit upon the policy of enfranchisement?—A. My judgment was, and is now, that they were not a unit upon it, although it was pretended they were by some.

WASHINGTON, *March* 29, 1872.

A. A. C. ROGERS'S cross-examination continued.

By Mr. MCCLURE:

Question. Were you present at any other meeting, at which Judge Bowen presented a written communication and made any explanation of it, aside from the one you have testified to as having been at Mr. Rose's office?—Answer. I was not.

Q. Was that the only time you met him upon that subject?—A. No, sir; I had a conversation with him at the fair-grounds upon the subject afterward.

Q. There were no two meetings, then?—A. No, sir. I told him I had left the meeting, and said he, "It is all arranged; you and your friends can settle that between you."

Q. Was there more than one meeting at Rose's office?—A. But one that I know of.

Q. But one that you attended?—A. But one that I attended.

Q. You are reported as having testified that you cannot be mistaken as to what Judge Bowen said at that meeting.—A. I am not mistaken as to the substance of it. I did not pretend to give his words; I have not pretended that, because I could not repeat them, but I have given the substance as I understood it; and I will go further, and say that I think I understand it very well.

Q. You say that you had a second meeting on the evening of that same day at which you met at Rose's office, and that you withdrew from that meeting. Upon what ground did you withdraw from it?—A. I withdrew from the meeting because they were proceeding to do that which I had no confidence in at all. It was a mere little trick, as I regarded it, for I did not consider that Mr. Clayton intended or meant, if circumstances would allow him to do otherwise, to carry out what he said. I did not believe, furthermore, that I had any right, in any shape, manner, or form to commit the people of the State and the people of my district to any policy. That was another reason.

Q. What did they propose to do in that meeting that you dissented from?—A. They proposed to carry out the arrangement which Judge Bowen had indicated at the afternoon meeting, and the preponderance seemed to be in the direction of concurring in the various propositions made before night.

Q. I understood you to have said in that connection that at the fair-grounds you saw Governor Clayton upon the next day and told him that

you had withdrawn from this meeting, but that you said to him you were satisfied, and that it was all right, and you believed those men would carry out their agreement.—A. I said that I believed they would carry it out; I said in the same conversation that I had withdrawn from the meeting; I know I said so to Judge Bowen at least.

Q. Your reason, then, for withdrawing from that meeting was solely that you did not believe Governor Clayton would carry out that proposition?—A. I have stated another reason. I would state further that I never was in a caucus in my life, and I had a very great objection to go into the first one. I went to the one at night against my judgment. I remained there until I found they were going to take steps that I did not approve. I repeat it, I thought an additional reason which occurs to me now, and did then, that under the then press of circumstances in the State, a liberal meeting having just adjourned with a good deal of excitement and hurrah, so to speak, I believed that better terms, stronger assurances and guarantees, could be gotten out of Governor Clayton than were proposed.

Q. In your conversation with Governor Clayton the next day at the fair-grounds did you state or demand any better terms?—A. I told him I had quit the meeting.

Q. I am asking about the conversation at the fair-grounds. Did you intimate to him that you withdrew simply because you desired better terms?—A. I did not.

Q. Did you make any intimation of that kind?—A. I said to those who met at the office, and to Colonel Harrold, who left with me——

Q. That you were unwilling to accept that proposition because you thought you could get better terms?—A. That was a reason.

Q. Was that statement made in the presence of those gentlemen on that occasion?—A. I think so. I was called upon in the round of those who took part in it. I made my statement, it was understood, to the meeting generally; and, as I said yesterday, I took my hat and coat, and left.

Q. Have you any distinct recollection as to what statement you then and there made?—A. I could give you, I suppose, the thought.

Q. Give the substance of what you did say.—A. I suppose it would be a difficult matter to repeat now, after a couple of years, what I said then. The reasons given here would indicate the line of thought upon that occasion; but, if the committee will hear it, I will go through with what I thought in my mind.

Mr. BARNES. The question is whether you can state it.

Mr. NORWOOD. Is not the statement already made sufficiently distinct?

Mr. MCCLURE. I want him to distinctly state it, to the end that I may show that he made no such statement.

Mr. NORWOOD. (To the witness.) State it as clearly as you can.—A. I stated to the meeting that I was unwilling to accept the proposition for two reasons. One of them I stated—I know I did at some period—that I had never been in a caucus, and that I was opposed to such maneuvering. I stated, furthermore, that I believed Governor Clayton would accede to terms even better than those mentioned by Bowen—those were some of the thoughts—and that I was unwilling to take any man upon a mere statement. I wanted him to plant himself upon a platform honestly and fairly like a man, and when he had done that, and I had an opportunity to examine this platform, then I might do it or not, as I approved or disapproved. That was something like an outline of the thought which governed and the remarks made. I do not pretend to

give you the words. You will see at once that I cannot do it, but this is an outline, the substance.

Q. (By Mr. McCLURE.) You say these gentlemen took issue with you upon that point?—A. There was very little said after I made my remarks. I took my hat and coat in a few moments and left. What occurred afterward I can only state from what was told me.

Q. Do you know as to the general line of policy that the majority of that caucus seemed willing to pursue?—A. I thought I did.

Q. What was it?—A. The line of policy which I supposed induced them to accept even a proposition was relief from the onerous burdens imposed by the authorities in the State upon the people in the way of disfranchisement; in the way of false registration; in the way of high and exorbitant taxes; in the way of bad appointments to office throughout the entire State almost. Under this state of things they were willing to find relief, even though it sent Clayton to the Senate, if they could thereby relieve themselves from these burdens. That was the outline, as I understand it. It was what governed me in the course I pursued there.

Mr. NORWOOD. (To the witness.) Mr. McClure wants to know what those people said about supporting Governor Clayton before they left that room.—A. The tendency of all that was, indeed, a suggestion had been made that one of the committee see Governor Clayton in person and conclude the arrangement proposed by Bowen.

Mr. McCLURE. Go on.

The WITNESS. At that juncture I left.

Q. (By Mr. McCLURE.) Was there any agreement or understanding between the majority of that caucus, up to the time you left, that they would support Governor Clayton upon the propositions that had then been submitted to them?—A. That seemed to be the tendency of the meeting. The sentiment seemed to go in that direction.

Q. Was there any definite or authoritative action taken by that caucus upon that subject?—A. There was not while I was there.

Q. You have stated that there was a kind of agreement there in the democratic districts that they should send men to the legislature who would support Governor Clayton for the Senate. Will you be kind enough to name to me any democratic district from which the democrats elected their member to the legislature who supported Governor Clayton for the United States Senate?—A. My recollection is, that every man in the house, of the democratic side, except perhaps five, voted for Governor Clayton. Three voted for myself, and two for somebody else. That is my recollection.

Q. When?—A. At the first election.

Q. How at the second?—A. At the second I was not in the State. I was here, and I could only give you what the newspaper stated.

Q. Do you not know it as a fact that not a single democrat voted for Governor Clayton at the second election?—A. I do know one that voted for him, as stated in the papers—Scales. Scales's vote is recorded as having been for him. He was a democrat, partly from my district.

Q. You have spoken something about the registration in Union County. You say there were 2,300 voters in Union County and but seven or eight hundred of them voted. Are you acquainted in Union County?—A. I am.

Q. Have you a very general acquaintance throughout the county?—A. I have been over it. I had appointments at, I think, three or four places in the county.

Q. How long have you been acquainted there?—A. More or less

with the citizens ever since I have been in the State. In passing, I would like to state there, in answer to what you said in reference to what I said, my recollection is that I stated that my recollection was that the vote was twenty-one or twenty-two hundred in Union County.

Q. What did I understand you to say the vote of Union County was?—A. I stated that my recollection was that the vote would——

Q. The registered vote?—A. At the last election?

Q. Yes.

Mr. NORWOOD. The witness did not speak of that yesterday. The registered vote and the vote were two different things, and I thought you had reference to the vote.

Q. (By Mr. MCCLURE.) I understood you to say, from a memorandum made yesterday, that in Union County you thought there were twenty-two or twenty-three hundred legal voters?—A. I think that many.

Q. I understood you to say, following that, that there were only seven or eight hundred persons allowed to vote. I want to know if I am correct?—A. I meant to say that my recollection of the vote was that it was about twenty-one, or twenty-two, or twenty-three hundred. I do not remember exactly the words I stated. That is the entire vote of the county. I then remember to have said, which I now repeat, that there were from eight hundred to a thousand, and it is my recollection from eight hundred to twelve hundred votes only were cast in that county now.

Q. Have you any knowledge as to how many persons were registered there—how many names appeared upon the registration-books?—A. I have not.

Q. You have no knowledge upon the subject at all?—A. Not personally, of my own knowledge.

Q. For aught you know there may have been twenty-three hundred persons registered in that county?—A. Personally I cannot tell how many were registered, as a matter of course. I was not the registrar and was not there. If I had seen the list I would not have known, for it might have been a bogus list. I have heard of a great many such things in the State.

Q. Did you see any bogus list in that county?—A. I was not there.

Q. I understood you to state a short time since that you had a pretty general acquaintance in the county of Union, and you coupled with that a statement that there were twenty-one or twenty-two hundred voters in that county, and but from eight to twelve hundred of them voted at the last election. Do you know whether this discrepancy that existed between the twelve hundred and the twenty-one or twenty-two hundred was the result of disfranchisement in that county?—A. I have stated that I was not there; that I did not see the registration; and in a previous part of my testimony I stated that the object of my seeing Governor Clayton in reference to this county and others was to meet the demands of the people who were writing to me, coming to me in person, telegraphing me in reference to the want of registration in that county; and acting upon that, I went to see Governor Clayton in reference to it and laid such facts before him as I had.

Q. Do you know in point of fact that a single white man entitled to register was refused registration in Union County?—A. Personally, I cannot tell.

Q. Pass to the county of Columbia. Have you a pretty general ac-

quaintance in Columbia County?—A. I had some four or five appointments in the county and spoke at them—five, I believe.

The CHAIRMAN. He asks about your acquaintance.

The WITNESS. I might say that I had a very general acquaintance, or a fair acquaintance.

Q. (By Mr. MCCLURE.) I understood you to have intimated in your examination-in-chief that an unfair registration was had in Columbia County. What do you know of that of your own knowledge?—A. I think I stated before that these communications came to me from every direction, from that county as well as others; but personally, going back to the strict letter, I know nothing and knew nothing.

Q. From whom did these complaints generally come?—A. That would be a hard question to answer. They came from citizens of the county, some of whom I knew.

Q. Were these written complaints?—A. Some of them were telegraphed to me, some by letter, some in person.

Q. Were any of those complaints forwarded to the executive office?—A. I am not quite sure. They were taken to me in person, as I have stated, and I went to him directly about it.

Q. I understood you to state that Mr. Wilkins was the registrar of Union County?—A. I do not remember that I stated anything about it. He was the registrar at first, as I understood. I did not see his appointment.

Q. You said you received a great number of complaints from Union County?—A. There were perhaps more from Union than from any other one county in the district.

Q. I understand you to have stated that you called the attention of Governor Clayton to this disfranchisement and these complaints that had been made. I desire to ask at what time you called the attention of the governor to complaints that had been brought to you?—A. My recollection is that it was about two or three weeks, I think nineteen days. We counted the time.

Q. Before the election?—A. I think it was nineteen days before the election. I know he said he did not have quite time.

Q. Is it not true that when you came to Governor Clayton and asked him to make the changes, and to correct what you conceived to be the wrongs in Union County in relation to registration, he said he had no power in the premises whatever?—A. He said he had no control over his registrars; that they were sworn officers. I then interposed that he had removed registrars, and called his attention to that. He replied, as well as I remember, "Well, damn it, I do not know that I had any authority to do it."

Q. I understand you to have said that you cited him then to the removal of registrars in Washington County?—A. That was Columbia.

Q. Did not Governor Clayton say to you that the reason why he removed the registrar there was that he was a candidate for office?—A. I think there was something said about his being a candidate for office.

Q. Did you not know as a fact that he was?—A. Not of my own knowledge.

Q. Did not Governor Clayton say to you, as one of the reasons for not removing the registrar, that all these complaints could be corrected by the board of review which met five or six days before the election?—A. He did not. I urged that on him. I told him he had time in Union County to have them all come to the county-seat, and he got his mind nearly made up, as I thought, once, a better impulse overcame him, and

then he turned upon his heel and denounced them as a damned set of rebels who had no right to vote at all. I said, "Governor Clayton, you are not the constitution of the State; you are a sworn officer."

Q. I understand you to say that there was an over-registration in Chicot County?—A. It was so stated, and I think the votes so show it.

Q. Have you any personal knowledge upon the subject?—A. I was not there, as I have stated, in the other cases.

Q. Are you aware that there was a single individual denied the right who was entitled to it under the law?—A. I am morally certain; but personally, positively, and legally, I am not.

Q. Was I mistaken in understanding you yesterday to say that Sickles was the registrar of Chicot County?—A. It was so reported to me, and in the conversation I had with Governor Clayton his name was mentioned as a registrar.

Q. Was anybody present at that conversation?—A. No, sir; we were in a little private room, as I stated yesterday.

Q. Do you not know it is a fact that Sickles never had any connection with registration in Chicot County?—A. I do not.

Q. Then what you have said in relation to Sickles's action, if it should turn out that he was not the registrar and never was connected with registration in Chicot County, would be founded upon a false assumption?—A. Not by any means. I stated that he was a registrar. I never saw the commissions of any registrars, so I had no actual knowledge.

Q. I understood you to say there were twelve hundred persons disfranchised in Jefferson County?—A. I do not think I said so.

Q. What did you say on that subject?—A. I spoke, my recollection now is, in reference to the vote of the county, and what the majority would be, in answer to a question put by Senator Norwood. I stated that I supposed there were about two thousand white voters in the county, and I said, I think, three thousand negroes. I would correct that by saying I do not suppose there are over two thousand five hundred legal colored voters in the county, though that is a mere matter of opinion, because I have no means to investigate.

Q. You have resided in Jefferson County quite a period of time, have you not?—A. I have resided there for eighteen years, with a little interruption.

Q. You have a general personal acquaintance throughout the county, have you not?—A. Personally with the white citizens, and a very large acquaintance with black and white.

Q. I understood you yesterday to have made some complaint against the registration in that county. Now I desire to know what number of persons were disfranchised in that county who were legally entitled to vote.—A. I could not tell you.

Q. Was there one?—A. I think so.

Q. Can you name him?—A. A young man by the name of Brown, and a young man by the name of Emory—two that came to me, I know, on the subject.

Q. Have you any knowledge that they ever appeared before the board of registration?—A. They offered to register when the registrar went around.

Q. Have you any knowledge of that?—A. They said they did, and were ready to swear it.

Q. Do you know whether these persons attended the board of review?—A. I do not.

Q. Do you know in point of fact that they were not registered by the

board of review?—A. Personally, of my own knowledge, I could not tell.

Q. Do you know of any others?—A. I cannot call up any, but there were quite a number there.

By the CHAIRMAN:

Q. The question is, do you know of your own knowledge that any persons were refused registration, or were refused to be admitted to registration, by the board of review, aside from what these persons may have told you?—A. I do not.

By Mr. McCLURE:

Q. You spoke about Hot Springs County. What do you know about the registration there?—A. I know that just as I know in reference to the other counties.

Q. You have no personal knowledge, then, upon the subject, one way or the other, whether the registration was fair or otherwise?—A. Not further than I have stated.

Q. Did not Governor Clayton, in the conversation to which you have alluded, say to you that if you would compile these matters and put them in tangible shape he would submit all these things to the registrar for his correction?—A. He did not.

Q. Did you ever address any inquiry by letter to Governor Clayton upon that subject at all?—A. I think two to him upon the subject of the election in my district, and perhaps it may have extended to other districts. I think the whole State was mentioned.

Q. Did you ever receive any response?—A. I received one letter.

Q. What was it in relation to?—A. It was in relation, as my recollection is, to the registration in Union County.

Q. What was the purport of that?—A. The purport was that he would try and see that they had as fair a registration as they could under the circumstances. It was a very short letter, not covering half a page. That letter was written, I think, before I saw him in person.

By Mr. McCLURE:

Q. I understand you to have said in relation to a conversation you had with Governor Clayton at one time that he said to you that Boles could never go to Congress as long as he was governor. I desire to ask you if you were positive that the words "as long as he was governor" were added to that answer?—A. I think I stated yesterday those words. I will accept it as it is. Let them stand.

Q. You are positive that he added those words?—A. I am; or words importing the same thing. I cannot undertake to give the exact words, it has been so long ago, but words having the same import.

Q. Somewhere in your testimony you have said that when you asked Governor Clayton if he intended to have a fair election he responded to you that that would depend upon circumstances. Now, sir, can you recollect the conversation that preceded the announcement of that fact that led to the remark?—A. I cannot, to answer you straight out without any explanation.

Q. I will ask you if in that conversation you did not call Governor Clayton's attention to the fact that certain counties had been thrown out, and if you did not say to him that if that sort of thing was to be carried on you did not propose to run, but you might as well go home and save your time and money?—A. In reference to the cutting off of counties I have no recollection. In reference to the balance of your in-

quiry, I stated yesterday what I have to say, but will repeat it if desired.

Q. I ask you if Governor Clayton did not say in response to that proposition that he depended entirely upon circumstances; that if the same events occurred in the election of 1870 that had been resorted to by the democracy in 1868, he would act in 1870 as he did in 1868, and throw these counties out if it became necessary?—A. He did not.

Q. You stated positively that no such conversation occurred?—A. I stated positively that he never stated what you have stated in that question.

Q. What did he state?—A. I stated yesterday, and I will repeat it all if desired. He said it depended upon circumstances. I stated that yesterday.

Q. Just please explain to the committee what you mean by depending upon circumstances; were those circumstances mentioned in that conversation?—A. The circumstances connected with the meeting which I have mentioned, and at which the propositions for a bargain were made, as I understood.

Q. Were they referred to in this conversation?—A. I was impressed with the thought that the whole thing turned upon that, and the course of the democratic party toward him touching that matter.

Q. You say you were impressed with that fact; what impressed you with it?—A. The conversation generally.

Q. This conversation had eighteen or nineteen days before the election?—A. No, sir; the conversation had in August.

Q. What understanding had you as to what course the democracy would take at that time?—A. My understanding was that they would carry out what had been agreed upon by this meeting, which I have detailed.

Q. That meeting was not until the 13th of October?—A. That was in 1869, and this was in 1870.

Q. Then your understanding was, in August of 1870, that the democracy were to carry out in the canvass of 1870 the propositions that were submitted to them in the October previous?—A. I thought when he spoke of circumstances in that conversation that he had reference to the meeting, as I stated, in October, 1869.

Q. What did Governor Clayton say that produced that thought or impression upon your mind?—A. The whole conversation did.

Q. What single fact or statement?—A. I told him I was going into the canvass upon condition that he would give us a fair registration; that I called to know what assurance I could give the people in reference to the election.

Q. The evening before you left Little Rock the last time, did you have any conversation or conversations with any person or persons as to appearing before this committee?—A. I think in a conversation with Colonel John C. Peay the matter of this investigation was alluded to, and only by him.

Q. Did you have a conversation with Thomas C. Peck?—A. I did not. Peck was not in the State.

Q. Did you have any conversation with Mr. Catterson?—A. I saw Mr. Catterson a very few moments. I was introduced to him.

Q. What conversation did you have with Mr. Catterson?—A. My recollection is that I said nothing to Catterson. I was introduced to him in a bar-room, and after two or three minutes' talk I left him.

Q. Did you have any conversation with J. C. Mills, United States marshal?—A. I did, but not with reference to this investigation.

Q. The evening before you left there?—A. From the time I got there until I did leave, put it; that will cover all the time I was there.

Q. What was that conversation with J. C. Mills?—A. I had a conversation with Mr. Mills which continued from the time he came down to the hotel up to about 12 o'clock with very little interruption.

By the CHAIRMAN:

Q. Twelve o'clock at night?—A. Yes, sir; the night before I left. I left in the morning.

Q. (By Mr. McCLURE.) I understood you to say yesterday that Senator Clayton was a resident of Jefferson County?—A. I always understood it so. He has a farm there. I cannot tell where he claims his residence. He was living at Little Rock, of course, as governor. His home was in my county.

Q. How long since was his home there; how long since he resided there with his family?—A. He has not resided there permanently with his family since he was elected governor; but his plantation is there.

Q. Has he resided there at all?—A. I do not know. I have not followed him up to know. I had no interest in the thing. I have understood that he claims the county as his county in talking, and I know he did live there; I know he did own a farm there.

Q. As to whether that is his residence, you do not know anything about that?—A. That, as a matter of course, I cannot tell you definitely.

By Mr. BARNES:

Q. You know of no change of his residence?—A. I have never been informed that his residence was changed. Mr. Chairman, if you please, upon reflection, in the conversation with Catterson I think the subject of this investigation was incidentally alluded to. The conversation was a short one, but I think it was alluded to.

Q. Did Senator Clayton assign any reason for his personal hostility to Judge Boles in the conversation had by you with him? If so, give his statements?—A. I am perfectly willing to give you the best statement I can. It was a rambling talk, first one subject and then another. He expressed great hostility to Boles for some cause. I do not know that he assigned a reason particularly. I think he mentioned his connection with some railroad matters in the conversation, but really I could not state what the particular ground of his opposition was.

Q. Did he assign any reason why he was opposed to the re-election of Logan H. Roots to Congress? If so, state what he said.—A. I cannot state any further than what I stated in the Boles case.

By Mr. McCLURE:

Q. You say that Governor Clayton in that conversation with you expressed some feeling toward Mr. Boles. What did he say about him? What did he complain of?—A. He complained, as I have said, partly of some railroad matters; I think the Fort Smith and Little Rock road there. That was one thing.

Q. What did he say about that?—A. I think the subject of that restriction was talked of which was afterward taken off, and his not voting in it.

Q. What did he censure Boles for?—A. I think he censured Boles for not voting, and the impression was left upon my mind, I think he said it, that Boles was improperly connected in the road in some shape, or he connected him with some money transactions in the road. That was one reason; there might have been others.

Q. Do you recollect whether the reasons he assigned upon that occa-

sion were political reasons or personal reasons?—A. My judgment was then and is now that both came in.

Q. Tell us what any one of his personal reasons was?—A. I have just stated what one of the personal reasons was. It ought to be a personal reason.

WASHINGTON, *April* 3, 1872.

JAMES L. HODGES sworn and examined.

By Mr. BARNES:

Question. Are you acquainted with Dr. A. K. Hartman of Little Rock?—Answer. Yes, sir.

Q. How long have you known him?—A. Since the spring of 1866; perhaps longer. I may have known him during the war. I knew him soon after, at any rate.

Q. In his deposition, heretofore given in this case, he stated that you and he had a consultation in a room connected with M. W. Benjamin's office on Sunday prior to the election in November, 1870; and that you informed him of a conspiracy to seize the polls in Pulaski County on the day of election; and that he was directed to take charge of the First ward polls of the city of Little Rock. Now, please state what you know about the transaction or statements as detailed by Hartman. Tell all you know in reference to the matter in any way.—A. I want a little information from the committee. I can answer the question in a very few words in effect, but I would be deprived in doing that of stating what did occur. Do you desire me to state what did occur?

Mr. MORRILL. You can answer directly, and then, if you wish to explain, you can add any explanation you desire.

The WITNESS. I state that no such thing occurred as stated by Hartman in his evidence.

By Mr. MORRILL:

Q. I understand you to say that you had not this conversation with Hartman; but you say you had an impression that what was being done was contrary to law?—A. I have facts.

Q. And that it might become necessary on the day of the election to choose judges by the people?—A. I advised my friends that I believed that was the only way we could hold a legal election.

Q. State what you know about the organization of the legislature of Arkansas which met the 2d of January, 1870, and your efforts to obtain a seat therein.

The CHAIRMAN. Do you propose to develop any new facts?

Mr. BARNES. Yes, sir.

The CHAIRMAN. Direct the attention of the witness to the particular facts you wish to develop.

The WITNESS. Mr. Chairman, in order to get at some of the facts which are new I may have to restate briefly some few facts already proven to show the connection; but I will confine myself as close as I can to new matter. As I believed, the ticket on which I ran was elected to the legislature. In due time I received this document, (producing a paper,) as I believed in accordance with law. This is the original document, and I offer it in evidence.

Q. What do you term it?—A. It is a certificate of election.

Mr. MCCLURE. I object to it.

Q. (By Mr. BARNES.) Do you propose to make it a part of your deposition?—A. Yes, sir.

Q. Those are your credentials?—A. Yes, sir.

Mr. MCCLURE. It is a certificate not required by law; it is extra official.

The WITNESS. I will show the law that requires it if the committee desire.

The committee overruled the objection.

The paper admitted is as follows:

"STATE OF ARKANSAS, *County of Pulaski, ss:*

"I, George W. McDiarmid, clerk of the county court for the county of Pulaski, in the State aforesaid, do hereby certify, that at an election held on the Tuesday after the first Monday in November, A. D. 1870, the following persons were elected in the tenth senatorial and representative district of the State of Arkansas, composed of the counties of Pulaski and White, in said State.

"From Pulaski County, viz: James L. Hodges, A. K. Hartman, Jesse Butler, and Hagan Green, having received the greatest number of the votes cast, were elected members of the house of representatives from said district. As fully appears by the abstracts hereto annexed.

"In testimony whereof I have hereunto set my hand and affixed my official seal this 26th day of November, A. D. 1870.

[SEAL.] "GEORGE W. MCDIARMID,

"*Clerk of the County Court for the County of Pulaski.*

"To Hon. J. L. HODGES."

"STATE OF ARKANSAS, *County of Pulaski:*

"I, George W. McDiarmid, clerk of the county court for the county aforesaid, do certify that, at an election holden in the State of Arkansas, on the Tuesday after the first Monday in November, A. D. 1870, for the purpose of electing (among other officers) members of the general assembly for said State, the following vote was given in the county of Pulaski, in the tenth senatorial district, composed of said county of Pulaski and the county of White, viz:

"Joseph Brooks received, for State senator, 3,193 votes.

"Wilshire Riley received, for State senator, 837 votes.

"James L. Hodges received, for member to the house of representatives, 3,174 votes.

"A. K. Hartman received, for member to the house of representatives, 3,146 votes.

"Jesse Butler received, for member to the house of representatives, 3,171 votes.

"Hagan Green received, for member to the house of representatives, 3,147 votes.

"Joel W. Pilkington received, for member to the house of representatives, 3,185 votes.

"John Goad received, for member to the house of representatives, 3,183 votes.

"Robert A. Howard received, for member to the house of representatives, 829 votes.

"R. S. Gantt received, for member to the house of representatives, 775 votes.

"E. H. Chamberlain received, for member to the house of representatives, 828 votes.

"C. H. Whittemore received, for member to the house of tives, 845 votes.

"L. B. Mitchell received, for member to the house of repr 816 votes.

J. W. House received, for member to the house of repr 804 votes.

"Witness my hand and official seal this the 12th day of A. D. 1870.

[SEAL.] "GEO. W. McDIARMII

"*Clerk of the County Court of Pulask*

"*Abstract of an election held in White County, Arkansas, November* 8, 1870, *for representatives to the lower house o assembly of the State of Arkansas, as per abstract of cl County on file in this office:*

"Reuben B. White received 9 votes.
"W. J. Warwick received 9 votes.
"A. G. Grattan received 9 votes.
"Fred Kramer received 9 votes.
"Tim Williams received 1 vote.
"James L. Hodges received 212 votes.
"Hagan Green received 210 votes.
"A. K. Hartman received 210 votes.
"Jesse Butler received 210 votes.
"John Goad received 231 votes.
"Joel W. Pilkington received 231 votes.
"Joseph W. House received 1,087 votes.
"Robert A. Howard received 1,079 votes.
"E. H. Chamberlain received 1,064 votes.
"C. H. Whittemore received 1,073 votes.
"L. B. Mitchell received 1,030 votes.
"J. F. Randall received 35 votes.
"R. S. Gantt received 1,029 votes."

"STATE OF ARKANSAS, *County of Pulaski, ss:*

"I, George W. McDiarmid, county clerk and clerk of the for the county aforesaid, do hereby certify that the annex going is a true and correct copy of the total vote for re therein set forth, and the same as appears of the abstrac returns of White County filed in this office by clerk of sai

"In testimony whereof I have hereto set my hand ar official seal on this 26th day of November, 1870.

[SEAL.] "GEO. W. McDI.

The WITNESS. As my recollection is, a few days after I notice of contest (producing a paper) admitting that I was notifying me of contest, and where I could take the evid this paper in evidence.

Mr. McCLURE. I object to it.

By Mr. NORWOOD:

Q. Who served that notice?—A. I forget who. It may It was served on me by some proper officer. I know I m tion.

Q. Who were the contestants?—A. Howard, Chamberlain, and others; the democratic ticket that ran there. The names are signed to it.

Mr. McCLURE. I perceive the names are all signed by one man; it is all in one handwriting.

The WITNESS. That is by an attorney, I suppose. Previous to the organization of the legislature there were caucuses held by republicans, friends of Senator McDonald as United States Senator. I attended those, and I can say, inasmuch as caucuses have been referred to, that in those caucuses there was an interest taken in reference to the admission of the delegation from our county elected to the legislature on the ticket on which I ran. The day of the organization of the legislature I was exceedingly anxious to know what was to be done, and in view of the information I had received I prepared myself to meet the question on the floor of the house if my name was left off the roll. On that day I went to the State-house some time before the time of organizing; I should think an hour or two before. I found there a city police force. I knew them nearly all. I said something in the hall to the police, that I thought it was exceedingly clear that the city authorities had taken the State-house in charge, and inquired, as well as I could, by what authority. The policeman stated to me——

By the CHAIRMAN:

Q. Having stated the fact that you found the policemen at the State-house, can you not make your story clear by saying that you went into the house, and telling what occurred there?—A. I cannot relate my conversation with them.

Mr. NORWOOD. Relate the facts that came under your observation.

The WITNESS. I also found police stationed at the foot of the stairs which approach the halls of legislation. I learned, either at that time or before, that 12 o'clock was the hour when they proposed to organize.

By Mr. NORWOOD:

Q. Is that the hour according to law?—A. I do not think the law designates the hour in the day.

Mr. McCLURE. The hour of adjournment is fixed by the constitution, but not the hour of organization.

The WITNESS. I took a position as near as I could to the police stationed there, with a view of making an effort to get into the hall as soon as anybody. I saw the door opened and saw Mr. Tankersley and Waters, and some that I regarded as particular friends of Tankersley and Clayton, enter the hall first.

Q. Who opened the door?—A. Secretary White. They seemed to have an understanding with him just when it would be opened and were there. I followed at once; Secretary White passed me along. I think there were not to exceed twelve men, at all events fifteen, in the hall when I got in. Mr. Tankersley went in a very fast walk, or on the run, as I thought, as near as I could see, to the speaker's chair. I heard somebody nominate Mr. Tankersley for speaker. I heard somebody say, "I second the motion." Everybody was in motion, that is, this crowd that was in ahead of me, and somebody put the motion and declared him elected.

Q. Was that before the members got seated?—A. Yes, sir; I do not think there was a man in his seat at that time. I went and took a seat, and I think before any further proceedings were had nearly all the members were in; at all events the seats in the legislative hall appeared full. There was no other election of temporary chairman. I saw Frank Wright at the door when I went in.

By Mr. BARNES:

Q. Who is Frank Wright?—A. The clerk of the previous house. He was apparently applying to go in; I had talked with him previously. I can state that conversation if the committee will admit it.

Mr. BARNES. I suppose it would not be competent.

The WITNESS. I am getting a little ahead, however. After the seats were filled, Secretary White went down towards the speaker's stand. I forgot to state that I saw Oliver, the sheriff of the county, at or near the door with White when I passed in. There was a motion made to elect a temporary secretary. Cohn was put in nomination, and it was put and carried. Then they made a motion, if I recollect correctly, that the secretary of state be requested to furnish a roll which he had. He had a paper in his hand, and seemed to be already somewhat excited. Another motion was made soon, that only the names upon his roll be called. I cannot say which one of those motions I undertook to speak to. I think, however, it was the latter one. I obtained the floor, was recognized, and undertook to explain to the body there assembled the proper manner of organizing the house; I went on to state that the way it was being done was entirely improper, revolutionary, and that the secretary of state, under the law, was to furnish the house a list, and not a mob; that the clerk of the house was the proper officer to organize the house; and that it should be organized upon the certificates of election as I went on to state. I was about stating the authorities I had and was going on to give them, when some member rose, or some one claiming to be a member, somebody on the floor rose to a point of order, said something; I cannot recollect just what it was, but it was sustained, and I was crowded down and failed to say anything more. I can say that it appeared to me a fixed plan that I should not say anything.

The CHAIRMAN. That is entirely out of the way.

The WITNESS. I only give you the deductions.

Mr. BARNES. Give the facts and let the committee draw the deductions.

The WITNESS. The roll was furnished and the clerk was about to call it. I then offered the credentials of our delegation, the one which I have put in evidence included, and I asked to have them considered at once, which was declined. I think then a motion was put by some one that all persons whose names were not on the roll be requested to retire without the bar. It was being carried, and I bade them good-by and walked out.

By Mr. NORWOOD:

Q. Your name, then, was not on the roll?—A. No, sir. The names of two of the gentlemen who ran on our ticket—Pilkington and Goad—were on the roll. I would like, if it is evidence, to state what Mr. Gantt then stated publicly.

By Mr. BARNES:

Q. At that time?—A. Right there by my side.

By the CHAIRMAN:

Q. It was given in the presence of the general assembly, as I understand?—A. Right on the floor of the house.

By Senator CLAYTON:

Q. Was it addressed to the speaker?—A. Yes, sir.

By Mr. MCCLURE:

Q. Do you say Gantt addressed the speaker?—A. Yes, sir.

Senator CLAYTON. He was not a member, as I understand, at that time?

Mr. NORWOOD. He was one of the parties elected.

Mr. BARNES. Claiming to be elected and contesting.

Mr. MCCLURE. I enter an objection to it.

The CHAIRMAN. State what Gantt said.

The WITNESS. Gantt stated that he was surprised that his name was not on the roll furnished by the secretary of state, or words to this effect—I state it as near as I can—that he had information or knew that his name was on, or to be on, two or three days before—his name and Jesse Butler in place of Pilkington and Goad—but that since then in some way Pilkington or Goad had been appointed in his place, and he desired to contest their seats, he and Mitchell, and he gave notice there publicly that he would contest. That is the substance of what he said.

By Mr. BARNES:

Q. Was that denied by anybody?—A. No, sir.

Q. Did Secretary White hear that?—A. He was there.

The CHAIRMAN. Mr. Hodges now undertakes to state what Mr. Gantt said there as to what he had been informed had been done with his name. Is it not a very indirect way to show a fact of that kind?

Mr. BARNES. It is the only way that we could show it except by White himself, and what he or anybody else stated in reference to the matter while the legislature was being organized.

The CHAIRMAN. The secretary of state was not in a situation to speak.

Mr. NORWOOD. It is probable he had plenty of friends there who would have spoken for him. Gantt states that his name was upon that roll, in the presence of the man who made that roll himself, and I think it is perfectly competent to go for what it is worth regarding the organization of the house.

The CHAIRMAN. Go on.

The WITNESS. I cannot be certain whether he said he had information or knew.

By Mr. BARNES:

Q. Was Secretary White near enough to hear, and do you, from the circumstances, believe he did hear it?

Mr. MCCLURE. I object.

The CHAIRMAN. (To the witness.) You can state whether he was near enough to hear.

The WITNESS. I state that he was, and I cannot conceive it possible that he did not hear.

By Mr. NORWOOD:

Q. How near was he?—A. I should say twice as far as across this room lengthwise.

By Mr. BARNES:

Q. What was the tone of Gantt's voice?—A. It was loud. He was a very distinct speaker. Everybody could hear if they were listening.

Q. Everybody in the hall could distinctly hear him that was listening?—A. Yes, sir.

Q. Did or did not the body give him attention?—A. It did.

Q. Go on now.—A. I have answered all your question in reference to the organization of the legislature. I said I retired then.

Q. Are you acquainted with Joseph Brooks, who testified in this case against Governor Clayton?—A. I am.

Q. How long have you known him?—A. I have known him since a

few months after the reconstruction measures were passed by Congress.

Senator CLAYTON. In 1867?

The WITNESS. Eighteen sixty-seven.

By Mr. BARNES:

Q. How long have you known Governor Clayton?—A. I think I became acquainted with him in April of that year personally. I am not certain that I was introduced to him before that time.

Q. Do you remember anything in reference to an interview during the sitting of the legislature at Little Rock, Arkansas, had between Joseph Brooks and Senator Clayton, then governor of the State, at the house of Auditor Berry, or Colonel Berry, in Little Rock, at which yourself and William A. Britton and Lieutenant-Governor Johnson were present? If you were at such a meeting, and know anything about how it was brought about, state it.—A. I think if I can refer to Mr. Brooks's evidence I can shorten my statement very much. There were a few points that he did not state.

Q. Were you at such a meeting as stated in the question?—A. I was at the meeting referred to. I was that night called out of my bed by William A. Britton, whom I regarded as my friend at that time, and he stated to me that Governor Clayton and Judge Thomas M. Bowen desired an interview with me and Mr. Brooks at Mr. Berry's house. My recollection is that they were there at Governor Johnson's room, and he was to be present.

By the CHAIRMAN:

Q. Governor Johnson boarded there?—A. Yes. I had a little talk in reference to it in thinking over what my duty was. I concluded that if they desired to see me and Brooks we ought to see them. I dressed myself and went over to Mr. Brooks and on to Berry's, as detailed by Mr. Brooks. The conversation, as detailed by Mr. Brooks, I heard, and can detail it here. I have read it, and would make it a part of my evidence, with some other matters, if the committee desire to admit it in that way.

Mr. MCCLURE. I desire him to give his own version of it.

By Mr. BARNES:

Q. Do you, or do you not, concur with Mr. Brooks in his statement of that conversation?

Mr. MCCLURE. I object.

The CHAIRMAN. It would be but going over the same thing.

Mr. MCCLURE. I have my reasons for letting this witness detail his version of that conversation.

Mr. NORWOOD. Go on and state what occurred.

Q. (By Mr. BARNES.) Tell the circumstances, everything connected with your meeting at Berry's, who was present when it occurred, the time of night, the length of time you remained, and the whole conversation that occurred at that time, as well as you remember it.

WASHINGTON, *April* 5, 1872.

JAMES L. HODGES'S examination continued.

The WITNESS. The first day of my examination I referred to a paper that I had printed containing extracts from the law and the governor's message. I sent for one of the original ones. I have it now with me,

(producing a paper,) which I offer in evidence, as I referred to it the other day. I stated I furnished it to these gentlemen I talked with.

Senator CLAYTON. I object to it. We must have the original.

The WITNESS. This is the original.

Senator CLAYTON. My original document?

The WITNESS. No, sir; the paper I furnished.

Senator CLAYTON. To whom did you furnish it?

The WITNESS. The friends of mine whom I sent for, and to whom I gave the information detailed in my evidence.

Mr. MORRILL. You simply wish to refer to it, then?

The WITNESS. I wish to make it part of my testimony, showing my design.

Mr. MORRILL. The witness simply refers to it. It can be annexed to the testimony but not incorporated. (See appendix to the testimony of this witness.)

By Mr. BARNES:

Q. You can go on and state in answer to the question on which the examination closed yesterday, in reference to the interview at Berry's house.—A. I recollect the interview referred to in the question. William A. Britton came to my house.

Mr. NORWOOD. That has been given.

The WITNESS. I will state that I cannot pretend to give the interview in the exact language that was used there. I am not good at recollecting exact language, neither can I give the exact language given by Mr. Brooks, but as I recollect it I will detail it. After we arrived at the room where Mr. Johnson was we found Governor Clayton and Judge Bowen there waiting for us. There were some remarks made about our getting together. I cannot recollect what they were, perhaps a joke or two passed; and after a little, the subject of the interview was opened. I think Mr. Britton stated that he had been instrumental in getting us together, and that he desired peace in the party, and so on. I recollect that Governor Clayton stated that he desired very much to go to the United States Senate; that it was a matter he had thought of and desired during the years that had passed, or to that effect; but that there were some complications which seemed to render it impossible for him to go; and, if I recollect correctly, he said he wanted to see if anything could be done toward removing those objections. I recollect that we consented that the conversation go on, and if anything could be done on our part in honor we expressed a willingness to do it. Governor Clayton stated that he had promised his friends before the election and after the election, after the legislature met, that he would not go to the United States Senate while Governor Johnson remained lieutenant-governor; and he did not know exactly how to get along with that. There were some propositions made, which I cannot recollect in detail, looking to Johnson's getting out of the way as lieutenant-governor. That was deemed on his part impossible, as I recollect, and that was abandoned. Propositions were made to us to admit us to the legislature, to admit members of the house. Mr. Brooks had already been sworn in some days before by Lieutenant-Governor Johnson, as has been stated. They desired that we should do something to have the sitting members from the thirteenth district in the house retained in their seats, and seemed to think we could.

By Mr. NORWOOD:

Q. Who were those members?—A. Allen, Kymes, and Ellington. I recollect that we stated that they probably misunderstood our influence

in reference to that matter; that we had had but little to do with it, if anything; that a few particular friends had asked our advice, and that we had only advised them to act conscientiously, to do what was right, and to be governed by the evidence; and so far as we knew they had been strictly governed by that idea; that they had so represented to us.

The *quo warranto* matter was talked over, and in that conversation the conversation looked to the stopping of that proceeding—I cannot say just what it was—in case matters could be adjusted. I recollect stating, on my own part, that I was chairman, as they knew, of the board appointed by the constitution to hold that election under which they were all elected; and that as far as I know I was confident that Governor Johnson had as much right to his office as any one of the others had to theirs; and I believed he had a perfect right to it, and I thought it wrong to have such a proceeding against him or attempt to oust him.

The proceedings of the Mallory committee were talked over, and we characterized it as a star chamber, and thought, on our part, that it was not very well calculated to bring about peace in the party to have such matters as that going on and being conducted in that manner. We spoke of the manner of obtaining evidence, of Upham having threatened men with the penitentiary if they did not say as he directed them. I spoke of his conduct with myself when I was before him, and of the fact that none of the committee were there, and neither Judge Bowen nor Governor Clayton seemed to defend the course of that committee or of Upham, its clerk, at all; but I recollect distinctly the statement was made to us by Governor Clayton, that that investigation was being had in view of what he supposed we were doing on our part in Washington. It was intended to counteract that; that was the idea.

We also spoke of the fact of our having been kept out of the legislature. The matter came up. I recollect that either Brooks or myself stated that we were surprised that they should have taken such a course; that we thought they were entirely wrong, and that they had taken the responsibility of keeping us out, and it was their duty, if we were entitled to our seats, to take the responsibility of putting us in our places, and that there could not well be harmony in the party until they commenced to do justice to each other, and that we thought if that was done then there would a feeling of amity spring up in the party so that we could harmonize upon matters that were right. I recollect distinctly Mr. Brooks stated that it was a new idea to him for Clayton to ask of the vanquished to concede to the victors. I recollect his speaking at length upon that point, and stated that Senator Clayton was elected against our notions of right, but all that we desired was that he (Clayton) should go on and take his seat, and leave Arkansas matters to adjust themselves, as we were satisfied they would if just left alone, and that it did not require any tinkering up or fixing up. It was stated somewhere in reply to that, as I recollect, at all events during the conversation had that night, by Governor Clayton, that, if we had been in the legislature, he would not have been elected to the United States Senate, or to that effect. I recollect saying, in reply to that, that I thought he was mistaken; that if our delegation had been in the legislature only he would still have been elected; but, if the other gentlemen whom I believed to be elected, but who were kept out, from other counties, had been in, then I thought perhaps he was right. I think I stated that. It was my idea; and I wish to state that this reply of mine referred to his past election, and not at all to the future one under which he holds his seat now.

It was proposed, finally, in the way of adjustment, that they would

follow the idea of doing something toward harmonizing; that is, do justice to those, as I supposed, who had had injustice done them.

It was proposed to have a report from the committee on elections of the senate in Brooks's case, and, if he was entitled to his seat as a *prima-facie* matter, that he should be sworn in again. It was proposed, the next day or so, on their part, to have the committee on elections report in our case in the house. We acceded to that.

It was also proposed, I recollect, in the Johnson matter, that Governor Clayton could continue in office until the adjournment of the legislature, which it was desirable should be brought about at an early day; and, after that, he could go away on some visit and leave Johnson in charge as governor; and that in that way his friends would get accustomed to that idea, and probably in time, at the next session of Congress, he could go and take his seat.

We, on our part, indicated a willingness to go into any republican caucus, and, on all political matters, abide whatever a majority of that caucus should say. On all other matters, where duty was involved, we should feel at liberty to do what we thought was right, and that we would not consent to any arrangement upon any other terms.

This conversation continued several hours. I suppose I have not related one half that occurred. I cannot recollect it in detail. If my attention was called to any particular points in it I have no doubt I could recollect more fully upon other points. I do not know but that I have given all the important points of the interview. I do not think of anything more just now.

By Mr. BARNES:

Q. Do you remember any reference or proposition made at that time upon the part of Governor Clayton and Judge Bowen, or either of them, proposing to make Brooks the governor and turn the administration of the State over into his hands if Clayton would be permitted to go to the Senate, or anything in reference to matters of that sort?

Mr. MCCLURE. I suggest that that question is somewhat leading.

The WITNESS. My answer would settle the point raised. I cannot recollect any conversation of that sort.

Q. (By Mr. BARNES.) You do not recollect whether it did or did not occur?—A. I do not think it did occur at that conversation.

Q. Was there any final agreement independent of the one you stated, that you can recall to your mind now?—A. No, sir, I cannot. There might have been something else.

By Mr. MORRILL:

Q. You spoke of things political and matters of duty. What do you understand by that?—A. I meant legislation and any action where we would consider ourselves bound in duty by our oath of office.

Q. Among members of the party?—A. Yes, in anything of a political nature necessary to be done, bearing upon politics strictly I should have felt it my duty to go along with the majority.

By Mr. NORWOOD:

Q. Was any proposition made in reference to what your action should be upon other matters not political?—A. Yes; they desired us to favor administration legislation.

Q. What was "administration legislation?"—A. I do not think it was detailed there, but I understand it was railroad measures.

Mr. MCCLURE. I object to that.

Mr. MORRILL. The witness seems fair about that. He says he does not remember that there was anything said about it.

By Mr. NORWOOD:

Was anything said in that conversation about making the appointment of certain parties?—A. I do not think there was. I think the idea was suggested to the parties present, may be to Johnson, (I rather think it was,) whether something else could not be done for Johnson, besides remaining lieutenant-governor and having the succession. It is my recollection that there was something of that kind intimated, but that was declined. I think, so far as Brooks and I were concerned, we premised the whole matter upon the fact that we had no trades of that sort to make—wanting nothing, simply claiming our rights. I would not be positive, however, about that. It is my impression that we did say that. I know that was our feeling on the subject.

By Mr. BARNES:

Q. In the Mallory report there is published what purports to be your evidence. Please state whether you have examined that report, or so much of it as embraces your evidence?—A. I have.

Q. State to the committee the facts in reference to that.—A. I have examined it. I never gave any evidence, or a word of what is there before any member of the committee. I went to what I supposed to be the office of the committee, in obedience to a summons from the clerk of the committee. I had before addressed a note to Mallory, as I understood him to be the chairman of the committee, and to Upham, whom I understood to be the clerk. It is my recollection that I addressed two notes, stating that I had learned that this committee was appointed for such and such purposes, and expressed a desire to be present, either myself or by an attorney, during the entire examination of witnesses, and insisted, as I recollect, upon my right to do so, as a matter of justice. A day or so afterward, as I recollect, I received this summons. I went there at the hour designated. I found Mr. Upham present. I inquired for the committee. He said they were absent, but that he could take my evidence. I asked him if I could not go before the committee. He said in effect that he was the committee; that he was authorized, and I should give it to him. I thought the matter over a little and concluded if I could get in my statement in that way perhaps it would help the case a little; and I undertook to make a statement. I at once discovered his intent was to misrepresent me, and I proceeded to write down every question he asked me and my answers, in pencil. I will state, as the question may arise, I have not that now. I thought I had it, but have been unable to find it. I may have it at home among my papers, but I thought I had it in my trunk here. When Upham got through he read to me what he had written down. I stated distinctly that it was not my evidence, not at all as I stated it. I stated, too, that I was prepared to swear to facts in reference to the registration; that I was familiar with frauds, &c., on the part of the registrar, giving some of the facts. He did not want any of that, and said that was not what it was for. He was very threatening, and sent for or called in the sergeant-at-arms of the senate, who came in there. I stated in the presence of the sergeant-at-arms that what Upham had taken down was not my evidence, and I did not want it published as my evidence. Upham insisted upon my signing it, and I told him I would see him some other place first. With that we parted. That is all I know about it.

Q. Did anything occur in the legislature after you were before the committee in reference to the presentation of that report containing

your evidence, in which you took part or made an effort to explain to the legislature, or have it explained, that the evidence as reported was not yours? If so, tell what it was, and state the circumstances connected with the presentation of that report.—A. I did not know that the report was going to be presented till after it was offered in the senate by Senator Mallory. I inquired of other members of the committee from time to time, was still hoping to get before the committee in person or by attorney. I furnished members of the committee some names of witnesses, and at least one member of the committee endeavored to get those summoned, as he informed me, and was unable to get them. Those witnesses swore in the Boles and Edwards case in reference to fraudulent certificates. I can name the witnesses in a minute. I refer to the case, because I cannot think of their names. (Referring to Mis. Doc. No. 22, House of Representatives, Forty-second Congress, second session, Election Case of Boles *vs.* Edwards, page 70.) James Burns, O. S. Dillon, and I think a man by the name of Kennedy, at all events, he stopped down on the boat, and one or two other names I cannot recollect. As soon as the report was published I got hold of a copy and read what the witnesses had sworn to as published. I saw several of those at once, and procured from several of them affidavits. I handed these affidavits to Senator Caraloff.

By Mr. NORWOOD:

Q. These affidavits you handed to Caraloff?—A. Yes; in the senate.

Q. Go on and state what occurred in the senate.—A. On the morning they were attempting to adopt the report, Caraloff got up and tried to offer them, stating that he had such and such affidavits, and stating their character briefly. They claimed they had moved the previous question, and insisted on voting upon that, ruled him out, and the matter was passed.

By Mr. BARNES:

Q. Go on and state what Caraloff said.—A. Caraloff stated that he held affidavits of gentlemen whose evidence was purported to be published as part of the evidence in that case, in which they stated that they had not, some of them, been before the committee at all, and some of them that they had not been before even the clerk of the committee, and others that they had been only before the clerk and that he had not written correctly what they had stated, had not written all the explanations and all they desired to state in reference to the matter. That is substantially what Caraloff said.

Q. What was said in denial of the statement of Caraloff, upon the floor of the senate?—A. There was not anything.

Q. His statement was not denied in any way?—A. No, sir.

By Mr. McCLURE:

Q. I understand you to say the previous question had been ordered at the time Caraloff rose?—A. It is my recollection that the previous question was pending and was in order.

By Mr. BARNES:

Q. Have you concluded your statement of what occurred upon the presentation and disposition of the Mallory report?—A. Senator Frierson introduced some resolutions setting forth part of what was said about that time. I find it in the record on page 168 of the senate.

Q. Explaining his vote?—A. Yes, sir; I think he also offered an explanation of his vote, which I do not find here. If I find it I would like to call attention to it.

Mr. McCLURE. It is there. I will find it. (Examining the journal.)

Q. (By Mr. BARNES.) Can you state anything in reference to the impeachment of Powell Clayton not already detailed by you in your evidence bearing on this case? If so, state it.—A. I cannot unless I give my reasons why I understood the conduct of the case, after Neal and the other two members were appointed, to amount to a farce. I can give my reasons for that if the committee desire.

Mr. BARNES. I suppose the committee would desire you to give facts; they can determine whether it is competent.

The CHAIRMAN. You can state any facts, and we can judge of their competency.

The WITNESS. One fact was, the rules adopted by the senate did not give the prosecution a sufficient time to prosecute the case. Another fact was——

Mr. McCLURE. Is that a mere matter of opinion?

The WITNESS. It is for the committee to decide. I cannot tell.

The CHAIRMAN. You can state what the time was.

The WITNESS. I will state to the committee that I have tried to get a copy of those rules ever since this investigation commenced, and I received information last night again that they could not get them.

By Mr. NORWOOD:

Q. What rules?—A. The rules adopted by the senate.

Q. Standing rules, or the rules in relation to impeachment?—A. In relation to impeachment.

By Mr. BARNES:

Q. What was the length of time given?—A. I cannot recollect. The other fact was, that as soon as the impeachment articles were passed a military force was raised. The governor continued in his position as governor. The supreme court came to his assistance and issued an order directing the lieutenant-governor not to attempt to assume the functions of lieutenant-governor in effect, and that I considered——

Mr. McCLURE. I object.

The WITNESS. Well, that is a matter of opinion. Another fact was, that the senate had disappeared at the time until they had, as it were, fortified themselves in every particular, so that there could not be a fair trial, as appeared to me. This may be inference. Those are the principal facts.

By Mr. NORWOOD:

Q. Are those facts leading to something?—A. They led me to a conclusion which I cannot state as evidence. Another fact was, that after the passage of those articles in the house, at least two articles had been written and published in the organ of the governor, the Republican, in which——

Mr. McCLURE. I object. Produce the articles.

(The objection was sustained.)

Mr. McCLURE. That is a good article the witness referred to. I wrote it myself, and have no objection to its being produced.

By Mr. BARNES:

Q. I will ask you if Judge McClure at this point did not state that he had no objection to the article which you referred to, which was ruled out, going in, and that he stated in the presence of Governor Clayton, and it was not denied by him, that he wrote it himself?—A. I so understood him.

Q. You stated that in your conversation at a meeting at which Mr. Brooks, yourself, Governor Clayton, Bowen, Lieutenant-Governor Johnson, and Britton were present, there was some talk that the Hot Springs delegation was to be kept in as a condition-precedent to your being let in. I will ask you whether you acceded to the retention of the Hot Springs delegation?—A. No, sir.

Q. You state positively and emphatically you did not?—A. I will state that that matter was left, as near as I can possibly state, as I stated in the direct examination.

Q. Do you state positively that you did not assent to it?—A. Yes, sir; I made a memorandum while sitting here of one fact which I did not detail in reference to a question. I had it in my mind to do so, but omitted it. If you will allow it I will state it as an additional answer to the question as to what occurred at Johnson's room where we all met.

The CHAIRMAN. State it.

The WITNESS. As I recollect there was one other matter suggested by Governor Clayton. He stated there what has been attempted to be proven here, that Mr. Brooks and I—Mr. Brooks I think more particularly—had opposed his election to the Senate on the ground that it would turn over the State government to the democracy, and so on, reflecting upon Governor Johnson. In reply to that, Mr. Brooks stated distinctly that it was not so; that he had never done any such thing, and he referred to his speech made in Governor Clayton's presence at the State-house, and reminded Governor Clayton that he (Brooks) distinctly stated there, in reviewing the speech made by Johnson, which had been claimed to be an indication of his going over to the democracy, and the speech made by Governor Clayton in October, (he reviewed them both and showed as well as he could that they were substantially alike,) that he did not approve of either, and was opposed to the doctrines of both. That is what I wished to state.

By Mr. MCCLURE:

Q. Did you ever, at any time, enter or make any contest before the legislature for your seat?—A. I deposited my certificate of election there with them; and that reminds me of something more I would like to state.

Q. I desire an answer to the question.—A. I did not take any further steps except to apply to the committee from time to time, and they assured me that my case would be heard.

Q. Were your credentials ever referred to the committee on elections?—A. I do not know; I have not looked at the record. I wish to state this, as it is important. After Governor Clayton was elected to the Senate, before this meeting named, before the steps taken by Mr. Brooks to be sworn in the senate, I was waited on by a few members of the legislature who attended the Clayton caucuses regularly, as they informed me, and I was informed by that delegation that if we would accede to certain propositions, if we would go in for the administration legislation and abandon our ideas of homestead lands, which was opposed to legislation intended on the levee bill and other legislation——

Senator CLAYTON. Give the names of that delegation.

The WITNESS. Yes, I will in a moment. This delegation, which also waited on Mr. Brooks, indicated that if we would do that we could be admitted, and that they had assurances from the caucus that we would be put in. We stated in the preliminary talk that we could not accede to any such thing, and stated substantially what I have said here, that

we were elected. If we had a right there we were entitled to it without any pledges; if we had not been elected we did not want to be in. A time to meet again was appointed. It was to be on a Sunday. In the mean time I had a private conference with Mr. Brooks, in which we agreed that we could not in honor do any such thing. I notified some of them, and the meeting did not take place. About that time, or afterward, there was an article published in the Republican, which I can produce, stating that we were responsible for keeping out Green and Butler, two colored men elected on our ticket; that if we would do what was right we could all go in. I have the article in my room. The names of the men were Mr. Barbour, a colored man, and Mr. Marr. I think also Mr. Preddy, and I think there was some one else.

By Mr. McCLURE:

Q. I will ask you, in connection with the question last asked you, if there was not an agreement or an understanding between yourself and the democrats in the house that, in consideration of their support to the impeachment articles against Governor Clayton and myself, you did not then and there agree that you would enter no contest in the legislature for your seats as members of the house of representatives?

Mr. BARNES. I object to the question as incompetent.

(The committee overruled the objection.)

The WITNESS. There never was such an agreement proposed to me; there never was such an agreement under consideration by me, and I never had an agreement nor an understanding with a democrat, politically, in my life up to this day. On another point I will say, and it is due here, when this Hot Springs matter came up the friends of Clayton would jump up, to scare some of the parties, as I supposed, and move that we all be admitted, and the record so shows these motions made. I said to my republican friends to not bite at any such thing, but to go on and do their duty and leave us out of the case until that matter was over.

Q. You state, on page 38 of your testimony, "I learned, however, before the legislature met, that some arrangement was fixed up to keep me out of the legislature." Now, I desire to know from whom you learned that?—A. That leads to a new subject. I learned that that was contemplated partly from Governor Clayton himself,

Q. When was it?—A. That was in the house owned by Secretary White.

Q. Where did it occur, and when?—A. It occurred in that house.

Q. How did that conversation come about?—A. Dr. Stark came to me about the time the city council had suspended Dr. Hartman as mayor, and Mr. Pugh as city attorney. I think it may have been afterward.

Q. You are fixing those circumstances, but fixing no date.—A. I am telling how it came about. Dr. Stark and I were talking over that matter, and I expressed regret that Clayton's council, that he had organized by force, &c., should go on persecuting the men simply because they were friends of Mr. Brooks and myself. Stark expressed a great desire to have those matters fixed up. He said it would ruin the republican party in time. I told him I was afraid of that myself. He wanted to know of me if I could see any parties, stating that he was not authorized to have this interview with me; but he was friendly, doctored in my family, and also in the families of some of my enemies. He desired to know of me if I would consent to see any of those parties, stating, however, that he had no authority to make or suggest this arrangement. I told him I never objected to doing what was right; was

willing, as far as I could, to do so; and after a time, I cannot state how long, that conversation and subsequent conversations which may have been had, brought about that interview.

Q. Did you ever have more than one conversation with Clayton at the instance of Stark?—A. No, sir; never but one.

Q. And that you state positively and emphatically was before the meeting of the legislature?—A. Yes, sir.

Q. What arrangement did Governor Clayton tell you had been made to keep you out?—A. He did not tell me.

Q. What did he say?—A. We talked over the matter, as I understood.

Q. What matter?—A. The matter of keeping me out, as I understood, had been set on foot at that time, or was about to be set on foot, I cannot just recollect, and Governor Clayton stated to me that he would see to it in some way and counsel his friends and see if it could be stopped, and see if arrangements could not be made whereby his friends and himself would consent to our going into the legislature. But he expressed himself in this way, that he did not believe his friends would allow him; that while he would be perfectly willing, they would not agree to it.

Q. Was anybody present at that conversation?—A. Not that I know of. I am telling it now as near as I can recollect. It is a matter that has not been called out here before.

By Senator CLAYTON:

Q. I want to understand what that matter was.—A. The plan of keeping us out was not talked over. The subject of keeping out the delegation from our county, consisting of Brooks, myself, and others whom they desired to keep out, was talked over. The persecution of our friends was talked over, and I stated in that conversation what I would do, so far as the election of Senator was concerned, in case I was in the legislature. Those matters were talked over, and it was assumed that such and such was the state of the case. I do not know that these proceedings were set on foot; but the Republican paper was claiming that we were not elected; and if it had not been for our own conduct we would have been all right; but now we had seized certain polls and they would be thrown out, or to that effect, and we were talking that general subject over. I had before I went there what I supposed undoubted evidence of the designs, and they were not denied.

By Mr. McCLURE:

Q. This witness had already stated that he had learned that arrangements had been made to keep him out of the legislature. I asked him from whom he ascertained this fact, and he said he ascertained it from Governor Clayton. Then I asked him what Governor Clayton stated to him, and he says, then, that they talked over the matter, and the answer discloses the fact that he had this information before he approached Governor Clayton. Now I desire to know from whom he got it.—A. I think I have answered it fully.

By Mr. NORWOOD:

Q. The question is, from whom did you get this information?—A. I stated just recently from the Republican paper; and from the course of events and facts that came to my knowledge from time to time that I cannot recollect and detail.

Q. You do not remember, then, any particular persons who told you?—A. I do not; except the talk I had with Governor Clayton, which I have detailed here.

By Mr. McCLURE:

Q. Then I understand you to say that before you had the conversation with Clayton, to which you have alluded, you had heard of an effort being set on foot to keep you out of the legislature?—A. I knew just what I have stated here.

Q. Then the conversation had between yourself and Clayton was directed to these general matters of fact which had come to your knowledge before that meeting?—A. I do not know that we talked over the particular facts that governed my mind in reference to my convictions on the matter.

Q. You do not know that?—A. I do not know that we talked over those facts.

Q. I will ask if Governor Clayton submitted to you any new theory for keeping you out that you had not heard of before?—A. No, sir.

ADMISSION OF PAPERS.

WASHINGTON, *April* 10, 1872.

Senator POWELL CLAYTON sworn and examined.

By Mr. McCLURE:

Question. State what position, if any, you occupied in November, 1870?—Answer. I was governor of the State of Arkansas.

Q. (Producing a paper.) Examine this paper, and say whether or not you ever saw it before.—A. (Examining the paper.) I did.

Q. State where, and when, and how.—A. It came into my possession about the 17th of November, 1870.

By Mr. BARNES:

Q. Do you refer to the whole of it?—A. The whole of it, just as it is here.

By the CHAIRMAN:

Q. You say that paper was in your possession on the 17th of November, 1870?—A. It was; it might have been a few days before.

Q. It came into your possession as governor as an official paper?—A. Yes, sir; while I was governor.

Q. All the papers?—A. Just as you see them here, except the paper on the outside, which is the paper attached by my clerk, the indorsement made, as was the custom.

Q. Were those papers examined by you before the granting of any certificate?—A. They were examined by me upon their receipt, and were before me during the whole time up to the time I vacated the executive chair.

Q. Do you know anything about these signatures that are here?—A. (Examining the paper.) I think that is the signature of Mr. Gantt, although I am not positive about that because I am not so familiar with it. I think those are the signatures of Mr. Chamberlain and Mr. Howard. The others I am not familiar with. I will state that, according to the best of my recollection, this paper was handed to me by Mr. Chamberlain; if not by him, by some one of these gentlemen. I recollect it was handed to me by one of the candidates, and I think by Mr. Chamberlain.

By Mr. BARNES:

Q. How does it happen, Senator, that you are in possession of these papers now?—A. When I vacated the executive chair, my private secretary, in accordance with my direction, retained all papers of that character. Deeming they would probably be of some importance in the future, they were retained. There is no law of the State which requires the papers to be kept there as a record.

Q. At what day do you say those papers all came to you?—A. As early as the 17th of November.

Q. All together?—A. Just as they are here, according to my recollection.

Q. You do not pretend to say that the signatures to the first paper here, addressed to "Your excellency Powell Clayton, governor of the State of Arkansas," are genuine except as to those of Camberlain and Howard?—A. I believed them all to be at the time, though some of them I was not familiar with.

Q. Are you familiar with the handwriting of these men; have you seen them write?—A. I said I was not familiar with some of them.

Q. Are you familiar with any except Chamberlain and Howard?—A. I have seen Gantt's signature.

Q. How often have you seen Gantt's signature?—A. I do not recollect.

Q. Do you believe from what you know of Gantt's written signature, that this is his genuine signature?—A. I believe it is.

Q. You cannot say that these are the genuine signatures of Whittemore, Riley, House, or Mitchell?—A. I cannot.

Q. Were you present when any of these parties signed the paper?—A. I was not.

Q. It is your best recollection that Chamberlain produced them to you?—A. I have said so.

Q. Do you know where the originals of these affidavits are?—A. I do not.

Q. Did you ever see the originals?—A. I did not, unless these are the originals.

Q. Did you not procure these documents to be got up?—A. I did not.

Q. Did you not know they would be gotten up?—A. I did not.

Q. Who was present when these papers were handed to you?—A. I do not remember.

Q. Were these papers or any of them present at the time Secretary White compared the returns in your office and ascertained the result?—A. The returns were not compared in my office.

Q. Were you present when the returns were canvassed by Secretary White?—A. I was present during the canvass of the returns.

Q. The whole of the time?—A. I presume so; the time I was by law required to be present.

Q. The returns were made within the time prescribed; they came to the office within the time?—A. That is not my understanding of it, although there may be some difference of opinion about that.

Q. You know that they were ascertained; the returns were cast up in your presence by the secretary of state, Robert J. T. White, were they not?—A. The returns were cast up in three or four different ways.

Q. By him?—A. Yes.

Q. Were those papers present at that time?—A. They were in my possession.

Q. Were they present; did you speak of them or refer to them, or were they taken into consideration at that time?—A. No, sir; they had nothing to do with casting up the returns, as I understand.

Q. Were these papers ever on file in the office of the secretary of state?—A. They were not.

Q. Never?—A. Not to my knowledge.

Here follow the papers referred to in the foregoing testimony of Powell Clayton:

To his Excellency Powell Clayton, governor of the State of Arkansas:

SIR: The undersigned respectfully represent unto your excellency that at the general election in the townships of Ashley, Campbell, Eastman, and Gray, and the precinct of Badgett, in Big Rock Township, in Pulaski County, on the 8th day of November instant, the judges regularly and duly appointed by the board of registrars or review of said county of Pulaski, to hold the election in said township respectively, were at the several voting-places therein promptly at the hour fixed by law for the opening of the polls thereat, but found the voting-places in the possession of armed bodies of men, pretending to act as judges of said election, under authority from William S. Oliver, sheriff of Pulaski County, George W. McDiarmid, clerk of said county, and R. F. Catterson, United States marshal for the eastern district of Arkansas; that the persons so pretending to act as such judges, held forcible possession of said voting-places by intimidations and threats of personal violence, drove the duly appointed judges therefrom, and proceeded to hold a pretended election, at which persons of all ages were permitted to vote without regard to registration or residence, and to vote as often as they chose.

The undersigned further represent that in the First ward of the city of Little Rock, in said county of Pulaski, a mob of armed men, by personal violence of a serious and disgraceful character, drove the regularly appointed judges from the voting-place therein as early as 6 a. m., and, being subsequently dispossessed, proceeded to hold an election in the street near by, at which all who applied were permitted to vote as often as they chose, and that without regard to age, residence, or registration, and that the same thing was done in the Third ward of said city of Little Rock.

The undersigned attach hereto the affidavits of divers persons attesting the truth of the foregoing statements.

The undersigned further represent that they are informed that the clerk of the county court of said county of Pulaski proposes to include in his abstracts of said election the returns of said pretended and fraudulent elections in the said townships of Ashley, Eastman, Campbell, and Gray, Badgett's Precinct, in Big Rock, and in the said First and Third wards in the city of Little Rock, and in the latter instances to ignore the returns of the regular election therein.

The undersigned pray your excellency to declare said elections in said townships void, or if that cannot be done to see that only the legal and valid returns are included in the abstracts of said election.

R. S. GAULT.
E. H. CHAMBERLAIN.
R. A. HOWARD.
C. H. WHITTIMORE.
WILSHIRE RILEY.
J. W. HOUSE.
L. B. MITCHELL.

STATE OF ARKANSAS, *County of Pulaski:*

I, Fleetwood H. Boyd, a citizen of Eastman Township, of said county of

Pulaski, do solemnly swear that I was duly appointed one of the judges to hold the election at the voting-precinct in said township on the 8th November, 1870, by the board of review of said county; that I was promptly at the voting-precinct before 8 o'clock on the morning of the 8th of November, 1870, having with me the poll-books and registration-books of said township. Truman Warner and Benjamin F. Woods, the other judges appointed by said board of review, were there with me. When I arrived at the voting-precinct there were about seventy men there who were armed, some with double-barreled shot-guns and some with small-arms, and the election was going on, and had been for about three-quarters of an hour before I got there, under the superintendence and direction of H. H. Pugh, who informed me that he was acting under authority of the United States marshal for the eastern district of Arkansas. He denied my right and authority to hold the election, and refused to recognize me as one of the regularly appointed judges of the election, and refused to recognize the poll-books and registration-books delivered to me by the board of registration. He was holding the election with registration-books and poll-books furnished by the clerk of the county court. The reason I failed to open the polls and hold the election, according to law, was that I feared personal violence from the armed men on the ground, and verily believed that if I had attempted to have opened the polls a disturbance would have been created and would have resulted seriously to me.

Finding that state of affairs existing, I left the precinct, bringing with me the registration-books and poll-books, and in consequence there was no legal election held in said township.

F. H. BOYD.

Sworn to and subscribed to before me this 10th November, 1870.

THOMAS B. HERNNEBERRY,
Justice of the Peace, Pulaski County, Arkansas.

I certify the above is a true copy of the original.

[SEAL.] JOHN STODDARD,
Notary Public.

STATE OF ARKANSAS, *County of Pulaski:*

I, James M. Hovall, a citizen of Gray Township, in said county of Pulaski, do solemnly swear that I was duly appointed one of the judges of the late election in said township by the board of review; that I was at the voting-precinct in said township promptly at 8 o'clock on the morning of the 8th of November, 1870, and Thomas McBride and Daniel McCraw, the other judges appointed by said board of review, were also there at 8 o'clock a. m.; that when we arrived at the said voting-precinct we found a number of colored men on the ground and in possession of the place of voting, as I supposed, under the superintendence and direction of a special deputy United States marshal, and deputy sheriff of said county, whose name is J. C. White, who assumed to be acting under authority from the United States marshal and sheriff, and who forbade us to hold said election, telling us that he was going to hold the election himself, and thereupon called upon the colored men present to confirm his appointment of judges, which they did; he then proceeded to hold the election with the judges and clerks he appointed, and with the poll-books and ballot-box he brought to the precinct with him, allowing me to keep possession of poll-books delivered to me by the board of registration. There being no other alternative, I was permitted and did vote at their polls.

JAMES M. HOVALL.

Sworn to and subscribed before me, this 10th November, 1870.

THOMAS B. HENNEBERRY,
Justice of the Peace, Pulaski County, State of Arkansas.

I certify the above is a true copy of the original.

[SEAL.] JOHN STODDARD,
Notary Public.

On the 8th day of November, A. D. 1870, at 7 o'clock a. m., I arrived at Ashley's Mill, the place designated in Ashley Township, Pulaski County, for the holding of the election for said township. I there found Mr. Greenwood, who, I was informed, was one of the judges appointed to hold said election, two or three white men, and from forty to fifty colored men. The colored men were nearly all armed, either with muskets, shot-guns, or revolvers. In conversation with them, I was informed by them that Mr. Greenwood could never act as a judge of an election in Ashley Township. Upon my assuring them that he could do them no harm by acting in such capacity, and that it was better to recognize him, &c., they informed me that Mr. Hodges had said he (Greenwood) must not be allowed to act; and that Mr. Hodges would soon be there and fix things. At just fifteen minutes before 8 o'clock a. m., J. L. Hodges and a number of colored men came up, and passing to the further end of the mill one of the men immediately nominated three persons as judges of the election, and the nomination was carried, I think, unanimous. In the crowd within the mill I saw the aforesaid Greenwood; also a Mr. Lewis, who had previously informed me that he was one of the appointed judges. A few minutes before 8 o'clock J. L. Hodges declared the polls of Ashley Township duly opened. I remained at the polls for some two hours, and was, a portion of the time, near the ballot-box. While I was there, Hodges was performing nearly all the duties required of judges and clerks; he looked over the register of voters' names and called "check" to the judge who held the ballot, and usually told him when to put in the ticket.

S. R. HARRINGTON.

Sworn to and subscribed before me this 11th November, 1870.

THOMAS B. HENNEBERRY,
Justice of the Peace, Pulaski County, State of Arkansas.

STATE OF ARKANSAS, *County of Pulaski:*

On this the 11th day of November, 1870, before me, Thomas B. Henneberry, a justice of the peace within and for the county and State aforesaid, personally came Calvin Pemberton, who, after being by me first duly sworn, on his oath states that he was present at the general election holden in Ashley Township, in said county, on the 8th day of November; that at said election James L. Hodges assumed the chief management of the same; that the said Hodges had charge of the registration-books, compared the registration certificates of votes with the books, and upon his statement of their correctness the votes were received; that the said Hodges otherwise controlled and managed said election, and made himself generally officious.

CALVIN PEMBERTON.

Sworn to and subscribed before me this the 11th day of November, 1870.

THOMAS B. HENNEBERRY,
Justice of the Peace, Pulaski County, State of Arkansas.

I hereby certify that the within is a true copy of the original.

[SEAL.] GEO. W. CLARK,
Notary Public.

THE STATE OF ARKANSAS, *County of Pulaski:*

I, Isham Forbus, a citizen of Ashley Township, in said county of Pulaski, do solemnly swear that I was present at the election in Ashley Township, in said county, on the 8th day of November, 1870; that I have read the affidavit of Calvin Pemberton, and that the same is strictly true.

ISHAM FORBUS.

Sworn to and subscribed before me on this the 11th day of November, 1870.

THOMAS B. HENNEBERRY,
Justice of the Peace, Pulaski County, State of Arkansas.

I hereby certify that the within is a true copy of the original.

[SEAL.] GEO. W. CLARK,
Notary Public.

STATE OF ARKANSAS, *County of Pulaski:*

On this the 11th day of November, A. D. 1870, before me, Thomas B. Henneberry, a justice of the peace within and for the county and State aforesaid, personally came Joseph W. Reybun, who, after being by me first duly sworn, on his oath states that he was present at the general election holden in Ashley Township, in said county, on the 8th day of November; that at said election James L. Hodges assumed the chief management of the same; that the said Hodges had charge of the registration-books, compared the registration-certificates of voters with the books, and upon his statement of their correctness the votes were received; that the said Hodges otherwise controlled and managed said election, and made himself generally officious.

JOSEPH W. REYBUN.

Sworn to and subscribed before me this the 11th day of November, 1870.

THOMAS B. HENNEBERRY,
Justice of the Peace, Pulaski County, State of Arkansas.

I hereby certify the above is a true copy of the original.

[SEAL.] GEO. W. CLARK,
Notary Public.

STATE OF ARKANSAS, *County of Pulaski:*

I, John W. Mooney, do solemnly swear that I was one of the judges of the election to be held in Badget's precinct, Big Rock Township, in said county of Pulaski, on the 8th day of November, 1870, duly appointed by the board of review of said county; that I arrived at said precinct with the ballot-box and poll-books, delivered to me by the president of the board of registration and deputy sheriff, at 6 o'clock a. m. on the 8th day of November, 1870. When I arrived at the voting-precinct I found the same in possession of one Charles Withall and an armed band of negroes, numbering about forty, as near as I can estimate. I demanded of Mr. Withall by what authority he had taken possession of the voting-precinct, who stated that he was sent there by the United States marshal for the eastern district of Arkansas, and by the sheriff and county clerk of Pulaski County, Arkansas, and he showed me his authority, with their respective signatures thereto attached, stating that he was authorized by them to hold the election and prevent the regularly appointed judges from holding said election, and that he intended to do so; and at 7 o'clock a. m. of said day he commenced to receive votes. I thereupon left the precinct, taking with me the poll-books and ballot-

box delivered to me by the president of the board of registration and deputy sheriff, and having proceeded about two hundred yards, when I met William Richards, one of the appointed judges, and Lewis J. Baldwin, one of the clerks, and, upon consultation, we concluded that it would not be safe for us to attempt to hold an election, as the colored men on the ground seemed to be very much excited and were all armed, some with muskets, some with double-barreled shot-guns, and some with pistols. We thereupon abandoned the idea of holding an election, and repaired to our respective homes.

J. W. MOONEY.

Sworn to and subscribed before me this November 11, 1870.

THOS. B. HENNEBERRY,
Justice Peace, Pulaski County, Arkansas.

I certify the above is a true copy of the original.

[SEAL.] GEO. W. CLARK,
Notary Public.

STATE OF ARKANSAS, *County of Pulaski:*

I, Millo Arbuckle, do solemnly swear that I am a citizen of Pulaski County, and that I went to the election-precinct at the Badgett place, called Badgett's precinct, in said county, on the day of the election, (8th November.) When I arrived at said election-precinct I found the polls in the possession of one Charles Withall and about fifteen or twenty colored persons. I reached said election-precinct on said election-day at 7 o'clock a. m., and found the polls in the possession of said Withall and armed colored persons. I further swear that the legally appointed judges of said election-precinct were at said precinct by 7 o'clock a. m. of said day and proposed to hold the election, but were prevented from so doing by said Charles Withall and an armed band of colored persons. I further that I heard the said Charles Withall say, on said election-day, that he, Withall, intended to hold the election himself. I further swear that said Charles Withall did hold said election himself.

MILLO ARBUCKLE.

Sworn to and subscribed before me this the 11th day of November, 1870.

THOMAS B. HENNEBERRY,
Justice of the Peace, Pulaski County, Arkansas.

I hereby certify that the within is a true copy of the original.

[SEAL.] GEO. W. CLARK,
Notary Public.

STATE OF ARKANSAS, *County of Pulaski:*

I, G. F. Gray, a citizen of Campbell Township, in said county, do solemnly swear that, on the morning of the 8th November, 1870, I went to the voting-place in said township about 7 o'clock, and found the polls in possession of Thomas Ross, George N. Perkins, Emanuel Jones, Eli Perkins, and Abner Harris, who were receiving votes. There were about thirty men on the ground, about one-third of whom were armed with shot-guns. I commenced distributing what I considered the true republican ticket, when George N. Perkins, one of the men in possession of the polls, threatened to arrest me if I distributed any more of those tickets, saying that he had the authority to arrest any one who distributed such tickets.

G. F. GRAY.

Subscribed and sworn to before me this 11th day of November, 1870

M. L. ANDREWS,
Poll-Judge.

WASHINGTON, *April* 13, 1872.

WILLIAM S. OLIVER sworn and examined.

By Mr. MCCLURE:

Question. Where do you reside?—Answer. I reside in the city of Little Rock, county of Pulaski, State of Arkansas.

Q. How are you engaged there?—A. I am sheriff of that county, and also *ex officio* collector of taxes.

Q. How long have you resided there?—A. Ever since 1861.

Q. Were you acquainted with Colonel McConnell?—A. Yes, sir.

Q. How long have you been acquainted with him?—A. I think about two years, as well as I can remember.

Q. State whether you have the means of knowing what was his reputation for truth and veracity in the community where he resided.—A. Yes, sir.

Q. Are you acquainted with the general reputation of H. L. McConnell in the community where he resided for truth and veracity?—A. Yes, sir.

Q. What is that reputation; good or bad?—A. It is bad.

Q. State whether you know of any efforts on the part of Governor Clayton and Judge Searle to procure the election of Judge Boles.—A. Judge Searle made a canvass down in his district, after his withdrawal, for Mr. Boles. Governor Clayton advocated the election of Thomas Boles in all his conversations to me, which were numerous, for I was much interested in the election of Boles. I was present at nearly all the caucuses that were held.

Q. State whether or not you knew of any attempt on the part of the friends of Governor Clayton and Judge Searle to defeat what was known as the Brindle-tailed ticket.—A. After the compromise was made, (which I suppose I need not go into the details of,) we made a compromise for the withdrawal of Searle, and to support what was known as the Brindle-tail ticket. Then there was only that ticket which was called the republican ticket and the democratic ticket in the field. I had several conversations with Governor Clayton and the prominent "Minstrels" in regard to the election of that ticket and the election of Boles. I felt very anxious, as I wanted to see the ticket elected. I had several conversations to sound Governor Clayton in regard to it. From outside rumors men were continually talking to shake my faith in Clayton's republicanism, and I had several conversations with him in regard to it, at the printing-office, at his office, and at his private residence—several of them alone. The first one was in the printing-office.

By the CHAIRMAN:

Q. You need not state the conversation in detail, but answer whether you know the fact that he advocated the election of Boles and the ticket in Pulaski County.—A. He did; and figured with me as to the majority. I do not know any attempt on their part to defeat the ticket; those of them that I saw advocated the ticket.

Q. Do you say that Powell Clayton advocated the election of Brooks and Hodges?—A. I do; to me in all his conversation, and always worked with me.

Q. Where did you ever have such conversation with Powell Clayton, that he favored the election of Brooks and Hodges?—A. I had several as I have testified to.

Q. Where were they?—A. At the printing-office.

Q. What printing-office?—A. The Republican office, in Little Rock; at his office two or three times; at his house one long session in regard to it. At this time I say we sat down and figured.

Q. Was anybody present with you in those conversations?—A. At all except this one at his house, where we sat down and figured, and satisfied him and myself that we had 1,500 majority in the district.

Q. Who was present at these conversations with you and Clayton, except yourselves?—A. Judge McClure over there, distinctly at one, I remember.

Q. Did he hear the conversation?—A. I think he did hear it. He was sitting right by the desk, and Clayton and I were sitting there together. I think John G. Rice was there; there were half a dozen, I cannot remember who, who came and talked about it. At another time we had quite a session, a stormy one, because some of our colored men were so embittered that they did not want to support the ticket.

Q. What ticket?—A. The Brindle-tail ticket. We met there, sent out men, and had two or three meetings at the State-house in regard to it.

Q. Did you ever know McConnell before he came to Little Rock to live?—A. I met him when he went up to Fort Smith. I think he came down once or twice while he was up there.

Q. Was he not in the employment of Governor Clayton while he lived at Little Rock?—A. I cannot say as to that. He is a kind of a hanger-on.

Q. That is no answer?—A. I cannot tell you.

Q. Do you not know the fact that he was engaged in assisting to edit the Republican?—A. I cannot tell you. I can give you my opinion.

Mr. BARNES. I do not want your opinion.

By the CHAIRMAN:

Q. Do you know whether he was so engaged?—A. I do not know whether he was regularly employed. I know he wrote articles; whether he got any salary or not I do not know. He wrote a number of articles.

By Mr. BARNES:

Q. Was he not recognized there, and did you not see him about Governor Clayton's office a great deal and about the Republican office?—A. Yes, sir.

Q. Was he not upon intimate terms with Governor Clayton?—A. I cannot say that he was very. I do not think he ever was.

Q. You do not know?—A. I do not.

Q. Was he not upon intimate terms with the leading "Minstrels?"—A. No, he never was with me.

Q. How do you know in reference to the others?—A. I saw them and know the way we generally treated him.

Q. But you know he did write articles?—A. O, yes, he wrote an article very well when he was sober. He was a ready and rapid writer.

Q. You say his general reputation at Little Rock was not good for truth?—A. I do say so.

Q. Who did you ever hear say his reputation for truth at Little Rock was not good?—A. I might make a sweeping assertion and say every one with whom I ever talked.

Q. Whom did you ever talk with about it?—A. I have talked with John G. Price, John McClure, and Governor Clayton.

Q. Who else?—A. William Britton.

Q. Did William Britton live at Little Rock?—A. No, he did not live at Little Rock.

Q. Does he not live at Van Buren, one hundred miles away?—A. He does now.

Q. Did he not then?—A. He was at Little Rock a good while.

Q. Who else?—A. Nobody else, because I did not make a specialty of it.

Q. Do you remember to have ever talked with any other human being in reference to the truth and veracity of McConnell except these men you have named?—A. I do not suppose I talked with these men about McConnell to exceed ten minutes apiece at any time.

Q. And this, then, is what you give as the general reputation of McConnell?—A. I do.

Q. Did you ever hear anybody else in that community speak of him except the men you have named?—A. I heard very few speak of him at all.

Q. Did you ever hear anybody else except the men you have named, call in question his truth and veracity?—A. They are the only men who knew anything about him, except some colored men I could tell you about.

Q. Is it not true that you never heard these men talk against him really until the falling out occurred between them?—A. I do not know what you call falling out. What do you mean by that?

Q. Just what I say; after he ceased to be around the Republican office and in the employment of these men, or in their company.—A. I do not know when you date that from. He was there but a short time. He was away, and would come back. When do you want to date it from?

Q. I want to date it from the time that Senator Clayton had a difficulty with him or at the time Clayton made his speech in the city-hall last fall. Did you ever hear either of the men you have named talk against Mr. Connell until then?—A. I never knew they had a falling out. The only thing that I ever knew that McConnell would send notes—that is the last I heard here—to Clayton assuring him of his friendship; that was the last thing I heard of their connection.

Q. Then you do not pretend to say that you heard a majority of the community or a majority of his neighbors speak of him at all?—A. I do not—a majority of his neighbors. There are not a great many people who knew McConnell, and those who knew him did not say much about him.

Q. And nobody said anything about him, as I understand you, that you remember, except the men you have given?—A. They are about the only men that knew him.

By Mr. McCLURE:

Q. You stated something about some colored men—A. Yes; that he called his secretaries. He used to have a couple of men, a man named Barbour, that he called his private secretary, that used to take care of him; I have heard Mr. Barbour speak of it.

WASHINGTON, *April* 16, 1872.

JOHN McCLURE sworn and cross-examined.

Cross-examined by Mr. BARNES:

Question. Are you the chief justice of the supreme court of Arkansas?—Answer. I am.

Q. When and by whom were you appointed to that position?—A. I do not recollect when. I think I was appointed by Governor Clayton.

Q. About what time?—A. I do not recollect the month.

Q. Do you recollect the year?—A. My impression is that it was in 1871.

Q. Was it not during the sitting of the legislature elected in the fall of 1870?—A. It was during the session of the legislature which commenced on the first Monday of January, 1871.

Q. Elected in 1870?—A. Yes.

Q. Had you been a judge of the supreme court prior to that time?—A. Yes, sir.

Q. An associate justice?—A. Yes, sir.

Q. How did you obtain that position?—A. By an election of the people.

Q. At what time?—A. At the time the other State officers were elected. It seems to me some time in 1868, perhaps.

Q. Who were the judges of the supreme court prior to your appointment as chief justice? Name them.—A. Gregg, Harrison, Bowen, Wilshire, and myself.

Q. Who was the chief justice during the time you were associate justice?—A. Judge Wilshire.

Q. W. W. Wilshire?—A. Yes, sir.

Q. Did he resign his position upon the bench?—A. I think he did.

Q. Who was appointed to fill the vacancy upon the bench caused by your promotion?—A. I think Judge Searle.

Q. Who was appointed to fill the position of Bowen?—A. Judge Bennett.

Q. Of Helena?—A. Yes, sir.

Q. At what time were these appointments made and by whom?—A. I do not recollect the time.

Q. As near as you can. I suppose you do not recollect the day, unless there was something special to draw your attention.—A. I do not recollect dates well, but I recollect this very distinctly, and that, perhaps, is the point you want to get at. They were appointed, I think all of them, during the pendency of what is known as the *quo warranto* against Governor Johnson.

Q. Were you appointed to the office of chief justice during the pendency of the *quo warranto* against Johnson?—A. Yes, sir.

Q. Were you appointed before Senator Clayton was first elected to the Senate or between the two periods of his first and second election?—A. My impression is that it was after the first and before the second, but I would not be positive about it. The commission itself will show.

Q. What was the result of the *quo warranto* against Johnson?—A. The opinion was unanimous that he had qualified within the time prescribed by law.

Q. What was the foundation for the *quo warranto;* what were the allegations in support of it?—A. The allegation was that he had not qualified within fifteen days after having received his certificate.

Q. And that was the question at issue?—A. The whole question at issue.

Q. And the court determined the issue in his favor?—A. Yes, sir.

Q. Do you remember the time of that decision?—A. I will not be positive about it, but my impression is it was determined upon the Saturday before the meeting of the legislature. That is the way it strikes my mind now.

Q. Do you not remember that the *quo warranto* was determined during the time the senate had gone to the brush?—A. No; I do not recollect that.

Q. Or after that?—A. No, it could not have been then.

Q. Reflect a moment and see if you are not mistaken.—A. I was mistaken about it. I was thinking of the *mandamus* case. That is the way it was; the *mandamus* case, I think, was on the Saturday before the meeting of the legislature. The *quo warranto* case, I do not recollect when it was determined. The report will show. It is here.

Q. You correct your statement; and I understand you now to say that the *quo warranto* was not determined at the time you first stated, but the *mandamus* you had in your mind?—A. The *mandamus* was in my mind.

Q. Your recollection is that the *mandamus* case was determined just before the meeting of the legislature in 1871?—A. Yes; I think on the Saturday before the meeting of the legislature commenced.

Q. Who wrote the opinion of the court in the *mandamus* case against McDiarmid?—A. My impression is that I wrote it.

Q. Is it not your best recollection that you did write it?—A. If I did not write it, I wrote a portion of it. My impression is that I wrote the whole of the opinion.

Q. You announced it from the bench?—A. Yes, sir.

Q. Was McDiarmid present at the time the opinion was announced?—A. I do not know.

Q. What is your best recollection?—A. I have not got any on the subject.

Q. What counsel were engaged in the *mandamus* case, both for and against McDiarmid?—A. I do not know; the attorney-general represented one side.

Q. Who was the attorney-general at that time?—A. Montgomery. It seems to me that Garland had something to do with one side of the case, but I do not recollect it now.

Q. Were you not an ardent friend and supporter of Governor Clayton in his election to the Senate?—A. I favored the election of Governor Clayton to the United States Senate.

Q. Did you not do all you could in your power to procure his election?—A. Well, I do not know of anything that I left undone that would have procured it that I did not do.

Q. You are the editor of his organ at Little Rock, are you not?—A. No, sir.

Q. You are the editor of what is known as the administration organ, I believe, at Little Rock?—A. No, sir.

Q. You are the editor of the Little Rock Republican?—A. I am the editor of the Little Rock Republican.

Q. Is it not known and recognized as the administration organ in the community?—A. I do not know whether it is or not.

Q. Do you own that paper now?—A. No, sir.

Q. Have you an interest in it?—A. Yes, sir.

Q. Were you not paid a regular salary for writing for the paper?—A. I was paid a regular salary for writing occasionally for it. My services were paid for when I wrote.

Q. Who was really the editor of the paper at that time?—A. I do not know. I wrote sometimes two articles a week and sometimes three.

Q. Who wrote the others?—A. I do not know.

By Mr. NORWOOD:

Q. You say you bought the whole interest in it last May?—A. Yes, sir.

Q. After the election?—A. Long after the election.

Q. And before that time you were simply editor?—A. Simply an editor. That is, simply a contributor; not the managing editor.

Q. Writing on a salary?—A. Yes.

Q. And since May you have parted with a half interest to somebody else?—A. Yes; and he (Mr. Barnes) wants to know who that is, and I say the party who owns that other half is a friend of Governor Clayton.

Mr. NORWOOD. What relation has that to the case?

By Mr. BARNES:

Q. Did you not receive levee bonds from other sources connected with the passage of the levee bill, or in connection with levee schemes in the State of Arkansas before or after the passage of the levee bill by the legislature of 1871, in the State of Arkansas?—A. For what?

Q. I want an answer to the question.—A. I say no, sir.

Q. Did you not receive orders for levee bonds on work or works unfinished in the State of Arkansas after the passage of the levee bill or before the passage of the levee bill by the legislature of Arkansas in 1871?—A. I think maybe I did.

Q. What amount of orders and when?—A. I decline to answer.

Q. Why do you decline to answer the question?—A. Because I choose to.

Q. Because you choose to?—A. Yes, sir.

Mr. MORRILL. This will be noted. Proceed with other questions.

By Mr. BARNES:

Q. I will ask you what amount of orders, either direct or indirect, for levee bonds have you received, either before or subsequent to the passage of the levee bill, or pending its consideration in the legislature of Arkansas?—A. I decline to answer.

Q. Why?—A. Simply that it is a question with which you gentlemen have nothing do, one way or the other.

Q. Did you receive any orders for levee bonds pending the consideration of the levee bill or subsequent to the levee bill.

Senator CLAYTON. That is the same question asked three times.

Mr. BARNES. It is a different question.

The WITNESS. I decline to answer it.

Q. Why?—A. Why?

Q. Why do you decline to answer it?—A. As my transactions in levee bonds were matters personal to myself and had no relation whatever to the election of Governor Clayton or any matter connected with the legislature. My single services were employed for what I did. It had no relation to any political movements in the State, and I decline to disclose those things before the committee.

Mr. BARNES. We would like a decision. We do not want to be captious, or refractory, or violent in ruling. We do not want to infringe any right of the witness or insist upon his making a disclosure that he is not by law in duty bound to do.

By Mr. NORWOOD:

Q. What was the consideration for those bonds?—A. For the bonds I received?

Q. Yes.—A. My services.

Q. Your services in what way; what were your services connected with?—A. In the passage of the bill.

By Senator CLAYTON:

Q. Have you any knowledge of any bargain, trade, or understanding in relation to the issuance of a certificate to John Edwards in consideration of his influencing certain votes in the legislature to vote for me for the United States Senate?—A. I have none whatever. I never heard of such a thing until this investigation commenced.

Q. I am instructed to ask you if you did not at one time, while you were judge of the supreme court, receive for your services as a judge the sum of $3,000 in money from Milton L. Rice, of the city of Little Rock?—A. No, sir.

Q. Did you not receive from him some sum of money or evidence of debt, or property of some character, for your services as judge?—A. No, sir.

Q. Neither directly nor indirectly?—A. Neither directly nor indirectly. Right there I want to make this statement. I was connected with the Little Rock Republican. Milton Rice came to me as the president of the Cairo and Fulton Railroad, and I had a conversation with him. In that conversation he desired to ascertain from me if I could control the columns of the Little Rock Republican from attacking the Cairo and Fulton road, as they were about submitting propositions to the different counties to vote county aid. I said to Mr. Rice that I did not know whether I could or not; that I would ascertain. I satisfied myself upon the point that I could control the paper to such an extent that articles would not appear in the newspaper against this railroad, and I went back to Mr. Rice and I so stated to him. Mr. Rice then proposed to me to pay me $2,000 in money and $12,000 in paid-up stock of the Cairo and Fulton Railroad, in the event that I would control the paper to that extent. I said to Mr. Rice that I would not give him a picayune for his Cairo and Fulton stock; that I did not want it. He then said to me that he would pay me $6,000 in money to keep the Little Rock Republican from attacking the Cairo and Fulton Road. I said to Mr. Rice I would take it. Very well. There were no writings about it either the one way or the other. Mr. Rice assured me upon his personal honor that the $6,000 should be paid. I controlled the columns of the newspaper in accordance with my agreement. The sole consideration was that I should control that paper, and he pledged his personal honor for the payment of the money. After the work had been performed and the election was over, I went to Mr. Rice one day and I said to him that I wanted some money. Mr. Rice went off on a tangent, and he said that I had gone to a party by the name of Smith and some other parties down there who were to make a contract for that road, and had prevented his making that contract; and that Hodges, and Benjamin, and others were growling, and refused to pay the $6,000. I then said to Mr. Rice that I had nothing to do with Hodges, Benjamin, and with Senator Rice, and with that railroad, neither the one way or the other; that he had pledged me his personal honor for the payment of that $6,000 in the event that I had done as agreed, and I had done strictly as I agreed to do. Said I, "Mr. Rice, you can pay this or not." Said he, "Whatever I will pay I will have to pay out of my own pocket, as Mr. Hodges and those other gentlemen refuse to contribute to the payment." He gave me a check on the Merchants' National Bank, of Little Rock, for $600, and his acceptance for $2,400.

Q. That made $3,000?—A. That made $3,000. The other $3,000 I did not get.

WASHINGTON, *April* 25, 1872.

ROBERT J. T. WHITE sworn and examined.

By Mr. BARNES:

Question. Were you at any time secretary of state of the state of Arkansas; if so, when and how long did you continue such secretary of state?—Answer. I was secretary of state from January, 1864, to 1868, and from that time under the reconstruction acts until the time of my resignation, about a year ago. I do not remember the precise date of the resignation.

Q. Were you secretary of state during the administration of Powell Clayton as governor of the State?—A. Yes, sir.

Q. When did you cease to be secretary of state?—A. When I resigned; I cannot remember the precise date.

Q. You stated in your deposition in another case that it was about the 13th of March, 1871.—A. That is it, I suppose. I assume that this is a proper report of what I said in that case. I have no doubt that is the correct date.

Q. Did you while secretary of state receive the returns of the election held in the State of Arkansas for members of Congress elected in 1870; if so, when did you receive said returns and in what manner?—A. I received them in the time and manner prescribed by law, so far as the reception by me is concerned.

Q. Did you cast up, compare, and ascertain said returns? If so, when, where, in whose presence, and in what manner did you perform that duty? State all the circumstances connected with the performance of that duty.—A. I cast them up at the time prescribed by law in the presence of the governor.

Q. Powell Clayton?—A. Yes, sir; he was governor.

Q. State all the facts connected with the performance of your duty in reference to the matter. State the whole of it.—A. There is a constructive view of the subject. I was present and responsible. My deputy, Frank Strong, was assisting me.

Q. Were no other persons present except yourself, your deputy, and Powell Clayton, then governor of the State?—A. Those were all.

Q. Did you in the performance of your duty as secretary of state have any other evidences or official documents before you than the returns made to your office from the various counties of your State?—A. I did not.

Q. Were any other evidences or documents then on file in your said office than said returns referred to, considered, or received by you in ascertaining the result of said congressional election?—A. There were no other documents or papers in the case filed, so far as I remember or believe.

Q. State the result of your count and canvass of said returns.

The CHAIRMAN. That is a matter of record, I suppose, for you have the original returns.

Q. (Presenting papers.) Are these papers which you had before you when you gave your deposition in the Boles *vs.* Edwards case?

The CHAIRMAN. You can ask whether these are the returns.

Mr. BOWEN. There is no dispute about that.

The CHAIRMAN. Is there any question about that being the paper which was used?

Mr. BARNES. I do not suppose they will raise any question.

Mr. BOWEN. We have not raised any question as to what the returns

in the office showed. We have based our action on an entirely different thing; and this is cumulative and unnecessary.

The CHAIRMAN. I understand that, so far as Governor Clayton is concerned, he concedes that the returns as they were canvassed by the secretary of state and returned to him showed a majority in favor of Boles.

Mr. BARNES. It has never been conceded.

Mr. MCCLURE. Governor Clayton concedes this: That, taking all the returns on file in the secretary of state's office, they showed the election of Mr. Boles.

The CHAIRMAN. And you concede that the abstract made by the secretary of state in Governor Clayton's presence, and presented to him, showed the election of Boles?

Mr. MCCLURE. There was no such abstract made or presented to the governor.

Mr. BOWEN. The law does not require any such abstract.

Mr. MCCLURE. The detail of the matter was simply this: the returns of the different counties composing the congressional district were gotten together, and the votes for congressman were taken off and put down, Boles so many, Edwards so many, and these votes were added up on a piece of paper.

The CHAIRMAN. That is the abstract.

Mr. MCCLURE. We admit that that count, then and there made, showed the election of Boles by those returns.

The CHAIRMAN. You concede that, so far as the count was made by the secretary of state, derived from the returns made to him from the several counties, it showed the election of Boles?

Mr. MCCLURE. We concede it.

By the CHAIRMAN:

Q. You were secretary of state, Mr. White, as I understand?—A. Yes, sir.

Q. And returns were made to your office of the election in the third congressional district?—A. Yes, sir.

Q. In virtue of your duty as secretary of state, you proceeded to count up the returns?—A. Yes, sir.

Q. You put the several returns on paper?—A. Yes, sir.

Q. After you put them on paper you added them up and found the aggregate given to each candidate?—A. Yes, sir.

Q. And this you did through your deputy and in the presence of the governor?—A. Yes, sir.

Q. Now, I want to know, after you had made such counting, whether that was handed to the governor?—A. I will state what actually occurred.

Q. State it.—A. When the time prescribed by law arrived the governor and myself, including my deputy, as a matter of course, met to canvass the returns for the different districts. There seemed to be some question about the election in the third district. The governor had some views on the subject growing out of alleged irregularities, perhaps, in the county of Pulaski or somewhere, and there was a question, as I recollect, pending before the supreme court as to the legality of elections which would affect the result more or less. However, upon our view of the case, we made an estimate or a canvass of the returns in form. I think I gave Mr. Boles a copy of the paper just as it existed when we concluded our work.

The CHAIRMAN. I ask counsel if there is any controversy as to the returns from any county but the county of Pulaski?

Mr. MCCLURE. None at all.

Q. (By the CHAIRMAN.) Look on the first page of the exhibit shown you by Mr. Barnes, and it seems that in the townships and wards there named Boles received 3,269 and Edwards 1,156. Is that correct as you remember, according to the count you then made?—A. I cannot state as to numbers. This does not appear to me to be the paper I furnished Judge Boles.

Q. Is that your writing?—A. No, sir; it is not my writing. I cannot reply to your inquiry from memory. Everything I did proceeded on the papers. I cannot state from memory what the precise figures were.

Q. I do not ask you as to precise figures, but as to the fact.—A. As to the fact, I cannot state it. I merely mean to say that the paper I handed to Judge Boles showed every view of the case.

Q. Where is that?—A. In all those views it showed that Boles had a majority of the votes.

By Mr. BARNES:

Q. In every view it showed that Boles had a majority, you say?—A. Yes, sir. Pardon me, although it may be saying too much in that sense, I never said or did anything in my office but what was founded on the papers.

By the CHAIRMAN:

Q. It is settled that, so far as the returns were concerned, if Governor Clayton had acted on those alone, Boles was entitled to the certificate?—A. Assuming that the face of the returns was correct.

The CHAIRMAN. I understand the claim is that Governor Clayton, after the returns were thus counted up and made to him, upon testimony outside of them, threw them out. His position all the time has been that, while the returns alone entitled Boles to a certificate, yet he claims that on testimony *aliunde* which he had a right to act upon he proceeded to issue the certificate to Edwards. This matter is conceded them.

Q. After that time did you have any recanvass of the votes?—A. No, sir.

Q. But after the matter had been thus held in abeyance for some time, without any recanvass, then I understand that you either by yourself or through your deputy issued a certificate to Edwards?—A. Yes, sir.

Q. Was this certificate to Edwards issued by the direction of the governor?—A. Yes, sir.

Q. Did you have any conference with the governor that you know of yourself that led to the issuing of the certificate to Edwards?—A. None whatever.

Q. You do not know anything of the circumstances leading to it?—A. No, sir. I was going to state, but I understand it was objected to, what I said to my deputy.

Mr. BARNES. That is not competent.

(The committee overruled the objection so far as to admit testimony as to what was said and done at the time the certificate was issued to Edwards.)

Q. (By the CHAIRMAN.) State what took place between you and your deputy at the time that certificate was being issued.—A. As he reported to me, he was in the act of preparing it. It is the custom and habit of the deputy, either by himself or some subordinate clerk, to do all the

ministerial work in the office, and he is responsible to me, and it is my duty to see that it is properly done. I had been away and walked into the office, and he reported to me what was going on. Said he "The governor has determined to issue a certificate." "To whom?" I inquired. I never knew up to that time to whom the governor would issue the certificate of that election. He said "To Mr. Edwards." Said I, "On what ground; make a note of the reasons if you know them." I supposed there was a controversy pending, and according to my views of things, and according to the best knowledge I had on the subject, I supposed there would be at least a controversy before the House of Representatives between the two parties. I remarked to him "You had better make a note," and he said to me that it was on account of the troubles and difficulties and irregularities within the county of Pulaski that had determined the governor, so far as he understood it, to issue the certificate to Edwards. I requested him to make a note of it, and expected that it would come up in the ordinary old-fashioned way of a contest before the House of Representatives.

By Mr. BARNES:

Q. Was that note in writing?—A. I do not know what note he made. That was my instruction. My instruction was oral. He prepared the certificate in the ordinary way.

By the CHAIRMAN:

Q. Did he proceed to prepare it at that time?—A. Yes, sir; and I think I signed it.

By Mr. BARNES:

Q. Was Governor Clayton present at that time?—A. No, sir.

Q. Did the deputy pretend to state at the time that there had been any other or further canvass of the vote in any way?—A. No, sir.

By Mr. MCCLURE:

Q. I understood you to say that the deputy did not say whether there had been a canvass or not?—A. No, sir; he, according to an order of the office, reported to me when I came in that the governor had ordered a certificate to Colonel Edwards. He was in the habit of doing so. I made it my business to be personally acquainted with the affairs of my office, as far as I could do so, and he invariably reported to me anything that I did not personally know.

By Mr. BARNES:

Q. Was General Edwards in the city of Little Rock at the time you issued the certificate to him?—A. I cannot say positively, but I think he was.

Q. That is your best recollection?—A. I think he was, but I cannot say positively. I did not see him very often or know him very well.

Q. Did you canvass the vote in the first and second congressional districts at the same time that you canvassed the vote in the third?—A. Yes, sir.

Q. And ascertained the result of the election in each congressional district at the same time?—A. Yes, sir; with the exception that it took a little more time in the third district, which was the last one we reached.

Q. You did the whole work at the same sitting?—A. At the same session; we did not stop until we got through.

Q. Did the governor sign the certificates and issue a proclamation

upon the canvass as to the other two districts then?—A. Yes, sir; within a reasonable time.

By the CHAIRMAN:

Q. There was no delay as to those districts?—A. No; I do not know that he did it immediately, but he did it in the course of business.

By Mr. BARNES:

Q. Did Governor Clayton produce any papers or documents at the time of this canvass?—A. No, sir.

Q. Did he pretend to rely upon anything of the kind?—A. Nothing, so far as was presented to me; nothing that was intended for me.

Q. You say, then, you had originally placed the name of Joseph Brooks on the roll of senators to report to the senate?—A. Yes, sir.

Q. And you had also placed the names of James L. Hodges, Hartman, Jesse Butler, and Hagan Green upon the roll of members?—A. I do not remember the names.

Q. Those who were on the republican ticket?—A. Yes, sir.

Q. At what time did you place the name of Brooks and the persons elected to the legislature upon the rolls?—A. In the order of business; in good time.

Q. How long before the meeting of the legislature?—A. If there was no other reason controlling it except the order of business, it was perhaps some two or three days before. I always want to be up to time.

Q. Was the decision of the supreme court filed in your office at the time you struck their names from the roll? Had it been officially filed in your office?—A. So far as I know, there is no provision of law to meet a case of that kind.

The CHAIRMAN. You can answer the question whether that decision was filed or not?—A. I say there is no provision on the statute for an official filing that I know of.

By the CHAIRMAN:

Q. Was there, or was there not, a paper purporting to be the decision of the supreme court filed in your office?—A. I saw a paper, and it was produced to me by the clerk of the county of Pulaski.

Q. Was it filed in your office?—A. It was presented to me. It is not possible to file a paper that the law does not provide for.

Q. Then it was not filed?—A. No, sir; I say, legally, it was not filed.

By Mr. BARNES:

Q. Was the written decision of the supreme court on file in your office at the time you struck the names of those persons from the rolls?—A. Legally it was not; in fact it was.

By Mr. MORRILL:

Q. You mean to say it was in your possession?—A. Yes, sir. The clerk of the county of Pulaski on Sunday night brought it to me.

Q. Was it brought to you by the clerk of the court?—A. Yes, sir.

Q. The clerk of the supreme court?—A. No; the clerk of the circuit court.

Q. But it was the clerk of the court delivering the opinion?—A. The court trying this question.

By the CHAIRMAN:

Q. Was McDiarmid the man?—A. Yes, sir.

Q. Did he bring a copy of that opinion, or what purported to be?—A. Yes, sir; and that was the first opinion I had on the subject.

Q. And left it with you?—A. He left it with me. I then afterward insisted that the decision of the supreme court, assuming that the court was to be respected, should be a part of the return.

By Mr. MORRILL:

Q. And thereupon you changed your list?—A. Yes, sir; and I ordered these men that I voted for to be excluded from the legislature and other men put in.

By Mr. BARNES:

Q. Are you not mistaken when you say that the opinion of the supreme court was filed by McDiarmid, the clerk of the county? Was it not merely the mandate of the supreme court that McDiarmid produced to you, and not the opinion?—A. It was a mandamus.

Q. The mere mandate?—A. What do you mean by that?

Q. The order to make the returns; the result of the opinion.—A. There was no order to me.

Q. Why did you resign the office of secretary of state?—A. There had been a great deal of trouble in the party, confusion and strife. I was dissatisfied with my position and office. I regretted these things. It was represented to me that there could be a reconciliation brought about; I had stated frequently for three months that if my resignation would do any good, I would resign. My family, situation, and all that which it is not necessary to explain, perhaps, caused me to feel thus, and I was tired of the constant struggle among parties there which I had endeavored in every way I could to reconcile, but had failed to produce any harmony or order, and on representation of the fact that my resignation would bring about that result I resigned.

Q. Who made that representation to you?—A. Mr. Hadley.

Q. The present acting governor of the State?—A. Yes, sir.

Q. Who was present at the time of the interview between you and Hadley in reference to that matter?—A. No one else, I think.

Q. Where and when did it occur?—A. At my house; I do not know upon what day.

Q. Tell all that occurred between you and Hadley at that time, everything that was said and done in reference to your resignation and in reference to the matters connected with it, either directly or indirectly.

The WITNESS. Mr. Hadley called to see me and reminded me of the fact that I had said, and was understood to have said repeatedly, during the session of the legislature, that if my resignation would bring about any solution of the difficulty that seemed to be prevailing, and harmony in the party, it was at their disposal, and he called to see me in reference to that thing. There had been a question also of some losses and sacrifices on my part. I had sustained the relation of good understanding with gentlemen who seemed at that time to be averse to the election of Governor Clayton to the Senate, but by reason of the difficulty about the organization of the general assembly and other things, they seemed to have regarded me as having forfeited any claims to their regard and confidence, and it had been remarked to me at different times that in the discharge of my duty, which I was doing upon my own responsibility, I should not suffer on that account. In that connection Governor Hadley informed me at the time that it was understood and agreed that if I resigned I should not suffer pecuniarily, and that the parties with whom he had conferred—he did not mention them all, and I do not know to what extent it went, but it

seemed to me to be akin to the talk that had been had before agreed to see me out in the matter if I suffered pecuniarily, and he mentioned the sums which they supposed I would be a sufferer. It seemed to come to a crisis. There had been talk about this thing before, and he mentioned it in that connection. It was understood that the parties I had been allied with before had determined to cast me off. I did not know anything about that personally, and he mentioned this thing. I did not ask anything about it. He mentioned it. He named a sum, $5,000, and twenty-five bonds of the first-mortgage bonds of the Ouachita and Red River Railroad Company, which he estimated as worth but little, and I do not know to this day whether they are worth anything or not. We separated there. I took the thing into consideration. Nothing more substantially occurred between us at all, and I went out to see whether the representation that the real crisis had arrived, that it was true there could be such a reconciliation made as had been desired and represented by him; and I went to see Colonel Johnson, the lieutenant-governor, to know whether the thing as represented was true, whether it would be satisfactory to him and his friends. He was understood to be a man who represented a material section of the republican party in that State. In the mean time, however, (which was the only matter that I acknowledge was of any selfish interest to me in the case,) I proposed, as I had done once before, that I should have a foreign appointment, and for this I am personally responsible; nobody else proposed it but myself, and I will explain it by a remark if it will not be diverging too far. When Governor Clayton was first elected Senator and declined, I remarked to him one day, "Governor, there seems to be so much trouble and confusion here that I had made up my mind that if you accepted the office to which you were elected, I would go to you in consideration of my domestic situation and the political situation, and do what I have very rarely done, and have never done but twice in my life, and ask of you to get me some foreign or outside duty as a pastime." At that time the whole question seemed to be concluded, and Governor Clayton had declined to accept his election to the United States Senate, and I did not know but what it was really as it appeared; that is, that the question would be opened again. Under these circumstances I asked Governor Clayton and Lieutenant-Governor Johnson whether, under the circumstances, we could not accomplish that object yet. I asked their influence, and they both agreed to give it to me. It was the second time in my life that I asked for an office, and the second time in my life that I did not get it.

Q. (By Mr. BARNES.) Are you through with your statement as to the conversation?—A. I have given my general statement about as near as I can state it. I do not know specifically what you want further.

By the CHAIRMAN:

Q. You understand enough about testimony to know whether you have given all?—A. I never was a witness but five minutes before in my life.

Q. You understood the question that was asked you?—A. Yes, sir.

Q. Have you answered all you have to say in connection with the question?—A. It seems to me I have substantially.

Q. You have already stated an interview you had with Governor Hadley, and that you separated, and that you said you would take it into consideration. Did you see him afterward upon the same s

ject?—A. I do not think I did. I certainly did not see him to any material extent.

Q. Did you see him afterward on that subject?—A. No. I do not think I did.

Q. Did you confer with Governor Clayton afterward upon that subject?—A. I never called on Governor Clayton, and I had no conference with him at all on that subject. Governor Clayton once passed me and asked me whether Senator Hadley had spoken to me on the subject, and I told him we had. We parted, and there was nothing more said.

Q. Did Governor Clayton ever call upon you on that subject?—A. Only in the way I indicate now.

Q. Did any person for him?—A. No one that I remember. I do not remember anybody else.

Q. Did you ever call on any person yourself to confer on the subject?—A. I merely called on a friend to advise with him as to the propriety and policy of the undertaking, a man in no way connected with politics. I told him what was proposed and asked his opinion of it, what he thought about it, what he thought of the whole thing. He was not a politician, but a private and personal friend. The thing ended in that way. I called on Lieutenant-Governor Johnson also to see whether this thing was satisfactory to him as represented.

Q. Did you find it was?—A. He said so, and it seemed to turn out that way afterward.

Q. Was this the day before you resigned?—A. A day or a day or two—a very short time before.

Q. Did you have any conference with any person else on that subject or on any matter connected with your resignation, than the one you have detailed before you did resign?—A. Yes, sir; the gentleman I alluded to—a private friend.

Q. Who was it?—A. Dr. Starke.

Q. Had you any conferences touching your resignation before you did resign with any other persons than those you have stated?—A. No, sir; I say distinctly that I had no interview with anybody except a personal friend, and that personal friend was Dr. Starke, besides what I have said about a conference with Governor Hadley, Lieutenant-Governor Johnson, and the remark Governor Clayton made to me in passing.

Q. You say that Governor Hadley suggested to you that you should not sustain pecuniary loss and talked about $5,000 and a certain number of first-mortgage bonds of a railroad?—A. Yes, sir.

Q. Did you get those?—A. Yes, sir.

Q. You got the bonds?—A. I got a certificate of them. I never saw or heard of them. I do not know whether they are of any account or not.

Q. Did you get the money?—A. I got the money. I got a certificate, and drew the money on it.

Q. Whom did you get that from?—A. The papers were inclosed to me by Governor Clayton, and deposited in New York by Sickles. I cannot think of his first name.

Mr. BARNES. Jackson E. Sickles?

The WITNESS. I think that was his name.

By the CHAIRMAN:

Q. Was that before or after your resignation?—A. Afterwards; some months afterward.

Q. Was there any letter accompanying the remittance?—A. Nothing but a mere inclosure of these papers.

Q. No letter?—A. There was a letter inclosing these papers, stating the fact in a business way, "I inclose you," thus and so; but there was nothing particular and specific, only, "I inclose you certain papers." Something to that effect.

Q. You knew what it meant?—A. I did. The papers showed for themselves what they meant.

Q. You got the certificate and the draft, as you say; but, I suppose they did not show upon what transaction they were issued, and you knew the transaction?—A. They had reference to the things that had been talked about before.

Q. With Governor Hadley?—A. Not Governor Hadley so much as other parties. They were referred to, and, of course, I supposed it included what Governor Hadley said.

Q. You say not so much what Governor Hadley said as to what other parties had said?—A. I will not say as to that, but it embraced what Hadley said, and what everybody else had said before.

Q. No one else said anything to you except this doctor and Hadley and Governor Clayton, as I understand you?—A. O, yes, sir.

Q. Who?—A. They had been talking; there was a general talk. There was a struggle there some months previously at the time of the organization of the legislature. I was discharging my duty, as I supposed, really and honestly. I often made the remark: "Everybody boasts of their friends and parties; I am a man without party and without friends, and I have to do a certain duty here," and I was not attacked or praised, so far as I know, by either party. I was sick and tired of the whole thing, doing the thing as best I could, however. They had indicated on the other side that I should not suffer because it was assumed, and I do not know yet how true it is; that is a matter which can be ascertained—there might be persons who could tell what the truth is. I had been in business relations with other parties, and the assumption was that I would forfeit, from their displeasure, all the interest which I had, which was the same interest they had, legally, morally, and every other respect. The remark was made to me: "Well, here, you shall not suffer; if these men refuse to recognize your rights we will try and make them good."

Q. That was before you made up the list for the legislature?—A. No; not before I made up the list, but after. The trouble arose after I made up the list.

Q. There was no suggestion of that kind before you made up the list?—A. None at all; it was after. I was doing my duty the best I could, and these remarks were made voluntarily and spontaneously, without any complaint on my part.

Q. Up to the time you made up this list had you been acting with either wing of the party there?—A. No, sir; I had not been. There are a great many witnesses there in Little Rock who can tell that I had not been in a caucus or meeting (although they met nearly every night from the organization of the government up to the day I resigned) except one little caucus a night or two before I did resign.

Q. Then the substance of it is that you were not connected with either party?—A. I did not consider myself so; I was trying to discharge my duty impartially.

Q. When you received this money and these bonds, was it in consideration of your resignation as secretary of state, or in consideration of what were understood to be your services?—A. I did not at all consider

t as in consideration of my resignation. If it had been so, it would ave been in a shape that I, of course, would have rejected it. It was ot presented to me in that form, and I did not understand it in that ray; and the only material point with me was about this matter of a oreign appointment which I could explain if I had an opportunity and t would pay this committee to learn what my private and personal easons were for desiring that appointment.

Mr. BARNES. Tell it all.

The CHAIRMAN. Go on.

The WITNESS. I had lost my wife, and was left with four little hildren. When my wife died, my youngest child was four days ld. The oldest were not capable of taking care of themselves, and ve had no relatives in that country. My two oldest children were ld enough, however, to get the benefit of a trip of that sort. hey were some seven to ten years of age, two boys. I ould not take care of them there. I had no right to call on anybody o protect them, and they were running around in a sense that any arent, I presume, could understand. That is as far as I wish to go in at respect, unless the committee desire me to go further. I do not ish to indulge in any feelings of that sort. I had no relatives that I ould call upon in that country, and I conceived the idea that if I could ke a trip abroad and take my two oldest boys with me, that might lieve the situation. That was a matter which, of course, I did not scuss with anybody. I talked about the foreign appointment with blic men, but I never would introduce my private and domestic mat-rs to any one. That was the reason why I wished to go abroad. I was pported in that by very intimate friends. Judge Whytock advised e to it, and he has advised me to it since my resignation. I do not ppose he was uncandid in it. He was at the house of my friend last mmer and suggested to me that I should go abroad and take my two ttle boys and give them the benefit of at least one or two years school-g in a European country. Judge Whytock was a man who understood y situation. He was a man in very intimate relations with me pri-ately, and I take it for granted, of course, he was candid in what he aid, and I have no doubt he was.

By Mr. BARNES:

Q. Who was to procure this foreign appointment for you?—A. Gov-nor Clayton and Lieutenant-Governor Johnson.

Q. Was this talked of before your resignation as a part of the sacri-es you had sustained in consequence of having to surrender your sition there?—A. It was no part of the sacrifices.

Q. I thought you alluded to sacrifices.—A. It was received by them spectfully and kindly. They both said, and Lieutenant-Governor hnson, particularly, said, and several of his friends said, that they d always believed I was much better adapted to that service than the me service, and they would cordially do all they could. I did not de-and this thing as a *sine qua non*, but I thought it was a good time to ggest it, as I was going to separate myself from the government there. felt, really, and I believed, really, as they said, and as it had been rep-sented to me, that Lieutenant-Governor Johnson seemed to be the ey to the whole situation. The opposition party had magnified him, nd seemed to rely upon him, and all that, and I thought it would pro-uce harmony, and I am very sorry it has not done it, but I am not re-ponsible for that.

Q. How long before your resignation did the interview between Gov-

ernor Clayton and Lieutenant-Governor Johnson with you in referen to the foreign appointment occur?—A. We never had any joint int view.

Q. The interviews you have detailed with either of them in referen to the foreign appointment?—A. Only a day or two; I do not rem ber precisely.

Q. I understood you that the interview in reference to the foreign appointment was between you, Governor Clayton, and Lieuten Governor Johnson, all of you together. Did I understand you correctly?—A. No; we were never together. I went around myself, personally, to see whether the representations made by Senator Hadley were well founded, because there had been a great deal of bitterness, a great deal of hostility.

Q. Were these interviews, then, with Clayton and Johnson very soon after the interview you have related between yourself and Hadley?—A. Yes, sir; there was very little time.

Q. And your object in having the interviews you have related was to see whether Hadley was correct or not?—A. Yes, sir.

Q. Did you or did you not find him correct?—A. I did, according to the representations of Lieutenant-Governor Johnson.

Q. Did or did not Clayton and Johnson know that you had had interviews with each of them? For instance, when you had the interview with Johnson did you not inform him that you had had one with Clayton, and *vice versa*?—A. I may have done so; but I do not recollect distinctly.

Q. What is your best recollection on the subject?—A. I have no recollection about it. I went honestly and straightforwardly into the work, and I say distinctly that I do not remember as to that. I went earnestly and honestly to the point that was involved in the case, and I have no recollection; it did not depend upon that; it did not matter to me at all whether I had seen this man or the other one, but I went and talked freely with them all, just as I would in any other transaction. I cannot remember that there was any formal, logical connection between the three parties. It was not necessary to the case at all.

Q. Did or did not Hadley refer somewhat to Johnson and Clayton in the interview you had with him?—A. Only so far as that he said Johnson would be satisfied with it and that Clayton would approve of the arrangement. That is substantially what it was. I cannot state, in the whirl of business then, the precise words; but that was the substance.

Q. Then, how long after these assurances and your interview with Hadley was it that Clayton met you and asked you if you had seen Hadley?—A. I cannot state, but it was within the time—there were only two or three days—that this thing was raging there.

Q. Was it before your resignation?—A. I think it probably was.

Q. Is it not your best recollection that it was immediately before your resignation?—A. I think the fact is so.

Q. Is it, or is it not, true that all the interviews you have named, with Clayton, Johnson, and Hadley, occurred just before your resignation?—A. Yes, sir; that is true.

Q. Did Hadley, in the interview you name, refer you to any other persons than Johnson and Clayton?—A. I think he made some reference to what is understood by the term "they."

Q. How did he explain that?—A. He never explained it; but I understood it to mean——

Q. State what else Hadley said at the time besides "they." If you can repeat the whole conversation, as near as you can I would be glad to

have you do so, in connection with the statement he made about "they," those he referred to.

The CHAIRMAN. If you have anything in addition to what you have said you can state it?

The WITNESS. I do not think there is. The time was short, the interview was short. I did not understand how the crisis came about, and there was very little time to spare.

Q. (By Mr. BARNES.) Was that interview in the day or in the night?—A. It was in the night.

Q. At what hour?—A. I do not remember the hour, but it was at my house. I am a man who retires at very early hours.

Q. Had you retired before he made his appearance?—A. Yes. But the public and influential people of Little Rock had not retired, and he called around there, called for me at my room. I do not know what the hour was.

Q. Do you say no other person came with him?—A. None except whoever brought him, the hackman, or whoever it was. He drove up there.

Q. Did or did not Hadley in that interview allude to Judge Bowen as one of the persons?—A. He did not.

Q. Do you know to whom he did allude?—A. I have said all I can about that, because they knew more about it than I did.

The WITNESS. To whom he did allude you could better ascertain from him. I was not previously informed, counseled, or conferred with or instructed. It was a case brought up on the face of it as it had been presented during the entire winter.

Q. (By Mr. BARNES.) How long after your resignation and Clayton's election was it before you received the drafts for the $5,000 and the certificates for the $25,000 in bonds, which you referred to, of the Mississippi and Ouachita Railroad, and where were you at the time you did receive them?—A. I cannot state definitely how long it was. I resigned, I believe, about the 13th of March. I think it was about three months afterward that I received them. I do not pretend to be accurate, but about three months. I think I was then at my present residence.

Q. In the State of Virginia, county of Loudoun?—A. I think so. I was somewhere, certain, and I think I was there.

By the CHAIRMAN:

Q. Had you any correspondence with Governor Clayton after your resignation and before you received this draft, upon the subject?—A. No written correspondence.

Q. Had you conferred with him on the subject?—A. I met with him once in New York afterward.

Q. Did you confer with him there on the subject?—A. The matter was lightly touched, a mere passing remark, and after that he inclosed me these papers.

Q. At the time the proposition was made to you by Hadley was there not a time fixed when the payment was to be made to you?—A. No, sir; it was a mere general conversation.

Q. I understand you did not confer with Hadley, after he made this proposition to you, on the subject?—A. I have no recollection whatever of it, and I do not think I did.

Q. You conferred with Johnson, however?—A. I went to see Colonel Johnson, not about these things, but to ascertain whether the representations made by Hadley were true.

Q. Then you never advised Hadley whether you would or would not accept his offer?—A. He never had any conference with me afterward.

Q. Did you have any conference with any persons before your resignation advising them that you would or would not accept the offer?—A. None that I remember. I resigned on the general theory that that was true and solid as God Almighty himself, with all respect, could make it. I had a theory and a policy about that, and I carried it out. It was suggested to me, and I carried it out independently. I paid very little attention really to this assumed consideration.

Q. Do I understand you that, aside from the conversation you had with Hadley, you had no promise or offer of this $5,000 and these certificates, and that you never, to any one, indicated that you were willing to accept that amount before you resigned. Is that what I am to understand?—A. I never made that a point.

Q. And in your conversation with Johnson you did not refer to it?—A. No; Johnson knows nothing about it so far as I am aware.

Q. Nor did you refer to it in your conversation with any other person before your resignation?—A. I had a talk with Dr. Starke; nobody else.

Q. After your resignation, you say that the only person you ever conferred with upon the subject was Governor Clayton at the time you met him in New York?—A. You speak of a conference. I drew his attention to it and asked him something about it, and he said the thing was alll right; it was true just as represented. It had been remarked to me repeatedly, at different times, (the thing I referred to before,) that they would not see me suffer because of an assumed determination on the part of other associates I had had to throw me overboard.

Q. These were men upon the other side?—A. Yes, sir.

Q. Now, I understand that after the resignation the only person with whom you spoke upon the subject was Governor Clayton when you met him in New York?—A. The only one I remember.

Q. Did you have any correspondence with any person else on the subject?—A. No, sir.

Q. Then, some three months after your resignation you received the draft and the certificates?—A. Yes, sir.

Q. And though there was nothing said in the letter on the subject you knew what it meant?—A. It was a mere transfer of papers, and understood them to relate to these conversations.

Q. The object of your interview with Lieutenant-Governor Johnson was to ascertain whether it would be satisfactory to him?—A. Yes, si and his friends. He was supposed to represent a material wing of t republican party.

Q. Whether it would be satisfactory to him for you to resign?—Yes, sir.

Q. Was he then to have the secretaryship?—A. Yes; whether would accept it, and whether it was satisfactory to him and his frien because Governor Johnson had been the most prominent man in opposition that we knew of.

Q. Your understanding was that if it was satisfactory to John you would resign and he would become secretary of state?—A. Y sir.

Q. And that would make a vacancy in the office of lieutenant-g ernor?—A. Yes, sir.

Q. And that was to be filled?—A. Those were all logical results.

Q. Were all these things talked of between you and Governor Jo know that, but whether they were talked of or

By Mr. BARNES:

Q. Was it understood that Hadley was to be the lieutenant-governor if Johnson was made secretary of state?—A. You might as well ask me what was the constitution of Arkansas. I do not think I am a judge here or an interpreter of such things.

Q. I mean in the conversation?—A. Whether or not, I do not say here. I say this, that if the question was raised I would take that view of the subject myself, and Governor Johnson would be a fool and so would I to take any other view of the subject. Of course it logically and lawfully followed; but what was the use of talking about a programme provided by us, that necessarily followed as a matter of law? I suppose Johnson had sense enough to understand it, and Hadley too. I certainly understood it so.

By the CHAIRMAN:

Q. The question asked was whether there was any talk between you and Johnson that Hadley would become lieutenant-governor?—A. I presume not.

By Mr. BARNES:

Q. Did not Hadley talk to you upon the subject of his being lieutenant-governor, in the event of your resignation, and the acceptance of your position by Johnson?—A. Not that I remember; it was not necessary to talk that way, because it followed.

Q. That he would be lieutenant-governor?—A. Of course; I do not suppose that he talked about it. I do not remember that he did; and if he did, he talked very unnecessarily.

Q. Who drew the draft for the $5,000; how was the draft fixed up, and upon what bank?—A. It was a certificate of deposit by Jackson E. Sickles, if I understand the thing correctly, in the Bank of North America, New York City. If the paper was here, it would not show any more than that.

Q. Upon that certificate you drew the $5,000?—A. Yes, sir; that is substantially the fact; the drafts were subdivided.

Q. Explain to the committee how they were divided.—A. Four parts of $1,250 each.

By the CHAIRMAN:

Q. Were there four drafts?—A. No, sir; there was one certificate of deposit, and I divided them into four parts. There was one certificate of deposit to my credit of $5,000 in the Bank of North America.

By Mr. BARNES:

Q. And you drew that amount at four different times?—A. I went and substituted for the original certificate of deposit four drafts of $1,250 each.

Q. Do you know from what source or how Sickles obtained the $5,000 certificate, or why it was that Governor Clayton furnished you Sickles's certificate of deposit for $5,000?—A. I only know it by bare rumor.

Q. By whom was the certificate for the $25,000 of bonds of the Mississippi and Ouachita Railroad signed?—A. The certificates said that Jackson E. Sickles had deposited with Clark, Walcott & Co. twenty-five of the $1,000 first-mortgage bonds of the Mississippi, Ouachita and Red River Railroad to my credit; that is all I have ever seen of it.

Q. Have you that paper with you?—A. I have not.

Q. Was it transferred to you by anybody, or merely delivered to you?—A. Delivered to me.

Q. Did Governor Clayton's letter contain any statement whatever?—A. No, sir; it was not necessary; the papers showed for themselves.

Q. You knew they were sent to you by Governor Clayton?—A. Certainly; he said so.

Q. Did the writing bear his signature?—A. No question about that; I received them from Governor Clayton; he sent them to me.

Q. By due course of mail?—A. Yes, sir.

Q. I understand you as stating in a part of your testimony that you had not been in the habit of attending caucusses held by these gentlemen, although held repeatedly, except one caucus held a night or two before you resigned?—A. I think not.

The following portion of the previous testimony of the witness was read to him:

"There are a great many witnesses there in Little Rock who can tell that I had not been in a caucus or meeting, (although they met nearly every night from the organization of the government up to the day I resigned,) except one little caucus a night or two before I did resign."

By Mr. BOWEN:

Q. Is that a true statement of the case?—A. I understand it in this way: I have no recollection of being in a caucus after the organization of the State government under the reconstruction acts until a night or two before I resigned. I was in one little conference then.

By Mr. BARNES:

Q. Who was present at that conference, or caucus, at that time?—A. I cannot tell you the names of all the persons who were present, but according to my recollection there was a majority of the senate and certainly a majority of the republican party.

Q: Who else was present, except the representatives and senators, at the caucus?—A. I do not remember that there was anybody else; I do not think there was, with the exception of myself and Governor Clayton.

Cross-examined by Mr. MCCLURE:

Q. Mr. Barnes asked you who else was present besides senators and representatives. I ask you if there were any representatives present at that caucus at all?—A. I do not remember that there were any members of the house of representatives.

Q. I ask you if it was not strictly a caucus of the republican members of the senate?—A. That was my understanding.

Q. Do you know how it was determined that Hadley should succeed to the position of president *pro tempore* of the senate?—A. I do not know, except as a mere operation of his election as president of the senate.

Q. I ask you if that caucus was not called for the purpose of determining that question on the night you attended it, and if it was not determined upon that night?—A. I think it was. There was something said about who was to be the president of the senate.

Q. I ask you if the caucus of the republican party did not determine that night to nominate Hadley?—A. The parties present.

Q. The republican members present determined that?—A. Yes, as far as they were competent; according to my recollection, it was understood that Hadley was to occupy that position.

Q. And this caucus was called for that purpose?—A. I cannot say that entirely. The caucus was called and there were other matters submitted to them in the mean time.

Q. You have said that it was supposed you would suffer some losses nd be subject to some sacrifices by reason of your resignation. Now I lesire to ask you what you mean by the use of the term "losses and acrifices." I understand from what you say that certain gentlemen ould not comply with their agreements with you. I should like to now what those agreements were and what you mean by the use of the ords "losses and sacrifices," and certain gentlemen not doing as it was ipposed they would do after your action?—A. As I understood it, I ad an interest as one of the coporators in one of the railroads in the tate.

Q. In what railroad?—A. The railroad leading from Little Rock to ort Smith—I do not know the title of it—and also in the Cairo and ulton road; there were certain interests I was supposed to be entitled on an equality with certain other gentlemen.

Q. Who were they?—A. I cannot name them all to you.

Q. Name such as you may think of.—A. In the first instance there was r. Hodges, Mr. Hadley, Mr. Senator Rice, Mr. Solicitor Benjamin, and think Mr. McDonald; some seven or eight of them.

Q. Was Mr. Brooks one of them?—A. Not in the Little Rock and ort Smith road.

Q. In the Cairo and Fulton?—A. What I said had reference to the ttle Rock and Fort Smith.

Q. I ask if Mr. Brooks was one of the persons in the Cairo and Ful- n Railroad?—A. In the Cairo and Fulton road there was Senator ce, Mr. Benjamin, Mr. Hodges, Mr. Brooks, Mr. Roots, Mr. Hadley, d myself. I think there were eight. I cannot call the other one w.

Q. You say at that time you were supposed to have an interest in the iro and Fulton road?—A. Yes, they said so, and I claimed it.

Q. Did not Hadley say to you, in that conversation, substantially, t your interest in the Cairo and Fulton Railroad (on account of your erence to Governor Clayton, and for resigning at the time you did) uld give great displeasure to the Brindle-tails, the leaders of which re then in possession of the Cairo and Fulton Railroad, and that the mpensation he then offered you was to offset the loss which you uld suffer by your action?

The WITNESS. Hadley did not say that in terms at that time; he had d similar things previously.

Mr. BARNES. I object to anything he said before.

By Mr. MCCLURE:

Q. I ask you if the losses and sacrifices referred to at that time did t relate back to the conversations in which you say he had referred those things?

Mr. BARNES. I object.

By the CHAIRMAN:

Q. Did Governor Hadley refer to the Cairo and Fulton Railroad mat- r in any of your conversations at that time?—A. No, sir; he did not y anything about it.

Q. Did he refer to the losses and sacrifices you might sustain?—A. e did generally.

Q. Had you any conversation with him before about possible losses d sacrifices?—A. Yes, sir; we had in reference to the Cairo and Ful- n Railroad matter repeatedly. He always told me they were going to ke advantage of the fact that I had no legal or technical means by hich I could recover my interest.

Q. In conversations with him before you had both referred to possible losses that you might sustain in connection with the Cairo and Fulton Railroad?—A. Yes, sir.

Q. This night when he spoke of losses and sacrifices, did he mention any losses and sacrifices particularly?—A. No; in a very general, vague sense; he seemed to assume that that thing was understood.

Q. When he proposed this $5,000 in cash and $25,000 in bonds, do I understand you that that was to make you good for possible losses and sacrifices?—A. Yes; generally. It seemed to be a response to what had passed before. We had often had conversations, repeated conversations; now was the crisis; I was going out.

By Mr. McCLURE:

Q. I ask you if the persons in charge of the Cairo and Fulton Railroad have not denied to you, as Hadley and yourself had talked of, any interest in that road?

By the CHAIRMAN:

Q. Have you ever received any certificate or any evidence of interest in that road in any way?—A. No, sir; but I can tell you more than that. I have not received any certificate. They acknowledged my rights, but they have not treated me as they have treated other persons. I recollect very well when the trouble occurred. That is a matter of legal right that may be investigated hereafter.

Q. I understood you that whatever interest you may have there or claim to have in that road, you have not received any evidence of?—A. So far as they are concerned they have ignored it.

By Mr. McCLURE:

Q. Did you ever receive anything for your interest in the Fort Smith road from these other parties?—A. Yes, sir.

Q. Have you received it all?—A. No, sir.

Q. How much is kept back from you?—A. About one-half.

Re-examined by Mr. BARNES:

Q. Did you not by resigning the office of secretary of state lose your salary and fees?—A. Certainly.

Q. What were they ordinarily?—A. It is difficult to estimate.

Q. About what?—A. My salary was $3,000, the lowest salary in the State, and the fees and altogether I suppose would average about $6,000 or $7,000. We sometimes do more, sometimes less.

Q. Did you not take the loss of your salary and the fees of the office into consideration?—A. No, sir; I never looked at the thing in that light. I will not admit that at all. That was not necessary. I only had to hold on to my office and get them.

WASHINGTON, *April* 30, 1872.

THOMAS A. OSBORN sworn and examined.

By Mr. McCLURE:

Question. Are you acquainted with one H. L. McConnell, who has testified before this committee?—Answer. I knew H. L. McConnell at Leavenworth, Kansas, when he lived there about three or four years ago.

By the CHAIRMAN:

Q. Where do you reside?—A. At Leavenworth, Kansas.

Q. Did you reside there when you knew McConnell?—A. Yes, sir.

Q. Were you acquainted with him?—A. I knew him.

Q. Were you acquainted with his reputation for truth and veracity?—A. Yes, I knew what people said of him.

Q. From that reputation, was it good or bad?—A. It was bad.

Cross-examined by Mr. BARNES:

Q. What is your name?—A. Osborn.

Q. What is your first name?—A. Thomas A.

Q. Where do you live?—A. Leavenworth, Kansas.

Q. How long have you lived there?—A. I have lived in Leavenworth since 1864, and in Kansas since 1857.

Q. In what part of Kansas did you live before you went to Leavenworth?—A. Doniphan County.

Q. At what point?—A. Elwood.

Q. Where did you first settle in Kansas?—A. Lawrence.

Q. How long did you live there?—A. During one winter, perhaps four or five months.

Q. Did you go from there to Elwood?—A. Yes, sir.

Q. And from there to Leavenworth?—A. Yes, sir.

Q. Did you live at any other place in Kansas than the places you have named?—A. No, sir.

Q. When did you first make the acquaintance of Colonel McConnell?—A. I think it was about the time of the last presidential election. I do not remember exactly, but I think he was there during that canvass. I knew him about all the time he was there, I think.

Q. How long did you actually know McConnell?—A. I cannot state; I think, perhaps, in the neighborhood of a year. It may not have been so long; it may have been longer.

Q. Did you have an intimate acquaintance with him during that time?—A. No, sir.

Q. Do you undertake to say, or do you mean to be understood, that you know what his general reputation for truth and veracity was in the community in which he lived?—A. I undertake to say that the general reputation of McConnell in that community was bad.

Mr. BARNES. That is not an answer to my question.

By the CHAIRMAN:

Q. Do you undertake to say you know his reputation was bad, not what it was?—A. I do.

By Mr. BARNES:

Q. How many persons have you ever heard, or did you ever hear, speak of McConnell's reputation, and give their names?—A. Indeed I cannot tell you how many, nor could I give you all their names. I remember now some names that come to my mind. I remember the name of John A. Haldiman, late mayor of Leavenworth.

Q. Who else?—A. I remember Mr. Joseph Clark, the publisher of the Leavenworth Evening Call, who was associated with him, I think, in business, or knew him intimately. I remember Mr. William Bond.

Q. What is his calling or profession?—A. I do not know that he is in business now. He has been in the grocery business there. He was a candidate for sheriff on the republican ticket, and was beaten in the late election. I do not recall any other names now.

Q. You say you are unable to name any other persons or recall the

ame of any other persons than the three you have given, that yo ever heard speak of the character of McConnell?—A. I have hea Colonel Insley speak of him.

Q. What is his first name?—A. M. H.

Q. Can you name any other man, either dead or living, that you ev heard speak of McConnell's character?—A. I do not know that I ca now name any other persons, but I have heard a great many of them

Q. Are you well acquainted in Leavenworth?—A. Yes, sir.

Q. What was the population of Leavenworth at the time you unde take to fix the residence and character of McConnell there?—A. should say about 20,000.

Q. And out of that whole number four men are all that you can giv that you ever heard speak of him?—A. All I can recollect now, but heard a great many speak of him and his general reputation.

Q. I will ask you if it is not true that all four of those persons whos names you have given are the personal enemies of McConnell?—A. do not know that he had a personal enemy in Leavenworth.

Q. Are you not yourself a personal enemy of his?—A. No, sir. I a very glad to see him do well.

Q. Have you not had a misunderstanding with him at some time?- A. Not at all.

Q. Do you not know the fact that some of those men, or all of the had personal troubles with McConnell?—A. I do not know that any of them had.

Q. What is your profession or calling?—A. I am a lawyer; not pra ticing now, however.

Q. How does it happen that you are here as a witness?—A. I a here in Washington on other business.

Q. Then you did not come here to testify in this case?—A. No, si

Q. Did you ever know McConnell before he went to Leavenworth live?—A. No, sir.

Q. To what political party do you belong?—A. The republican p

Q. Have you belonged to it all the time?—A. All the time.

By the CHAIRMAN:

Q. Did you ever hear persons there speak well of McConnell as character for truth and veracity?—A. I never did.

Q. Did he have a general acquaintance in the city?—A. Ye quite general.

By Mr. MCCLURE:

Q. How have you been employed in Kansas since you hav there?—A. In practicing law; I engaged some in politics; was l ant-governor of the State two years; was United States marsh under Mr. Lincoln; I have been a member of the State senate is about all.

WASHINGTON, *April 3*

INSLEY sworn and examined.

Q. Did you know H. L. McConnell there?—A. Yes, sir, I did.

Q. How long did you know him?—A. I knew him while he was in Leavenworth, probably a year; I do not remember how long. I knew him three or four years ago.

Q. He resided there at one time?—A. Yes, sir.

Q. Were you intimately acquainted with him?—A. Not very intimately.

Q. You knew the community in which he resided?—A. Yes, sir, very well.

Q. Had you any means of knowing, or did you know his reputation for truth and veracity while he resided there?—A. I knew his general reputation.

Q. That is what I speak of. Was that reputation good or bad for truth and veracity?—A. That reputation was bad.

Cross-examined by Mr. BARNES.

Q. What is your calling or profession?—A. I am in general business, railroading and different kinds of business. I have been assisting in building railroads there for several years.

Q. Did you know McConnell before he went to Leavenworth to live?—A. No, sir; not before he went there.

Q. You say you did not know him intimately?—A. I met him there frequently. I never had any business transactions with him; but I knew him as one knows a great many men.

Q. Did you associate with him, meet him in the social circle?—A. No, sir.

Q. You had a mere passing acquaintance with him?—A. A general acquaintance.

Q. Did you ever have any trouble or falling out with him?—A. O no, sir.

Q. There was no ill feeling at any time between you?—A. No, sir.

Q. Did you agree in politics at the time? Were there any troubles, politically, between you?—A. We did not agree in politics; but there was no trouble between us.

Q. Did you not have a political trouble with McConnell?—A. No, sir.

Q. Did not your political friends have a political trouble with McConnell?—A. Not that I know of.

Q. Are you not really hostile to him personally?—A. Not at all.

Q. You never have been?—A. No, sir; I never have.

Q. How does it happen that you are here as a witness against him?—A. I am here for the purpose of trying to collect money due me from the Government, and I was summoned.

Q. You were not, then, summoned from your home to come here to testify against him?—A. No, sir.

Q. You happened to be here upon business and was summoned here?—A. Yes, sir; summoned here.

Q. Who had you summoned?—A. That I do not know.

Q. Who have you talked to in reference to what you would testify in this case?—A. I have been asked by two or three persons whether I knew McConnell or not.

Q. Who were they?—A. I think I was asked by Mr. Clayton and Judge Bowen.

Q. Were you interrogated by Judge McClure, or did you have any conference with him on the subject?—A. No, sir; I had not met Judge McClure for two years until I met him here a few moments ago.

Q. Do you know where McConnell went from your place?—A. I understood he went to Arkansas.

Q. Did you not give him a letter of introduction to Senator Clayton when he went there?—A. No, sir; I did not.

Q. Are you right certain you did not?—A. I have no recollection of giving any. I do not think I did.

Q. Did you not give him a letter of general recommendation?—A. I do not remember to have given him any such letter. I do not think I did.

Q. You say you knew McConnell about one year, as I understand you, and you knew his reputation. Tell us who you ever heard speak against McConnell. Give us the names of the men.—A. I have heard John A. Haldiman, ex-mayor of Leavenworth; C. R. Morehead, ex-mayor of Leavenworth; William Bond, of Leavenworth.

Q. What business did Bond pursue?—A. He was a grocery-merchant at the time McConnell was there.

Q. Anybody else?—A. Joseph Clark, editor and proprietor of the Evening Call.

Q. Anybody else?—A. Thomas Plowman, ex-city treasurer.

Q. Anybody else?—A. It was a general thing. I do not remember individuals, but I could probably, by refreshing my mind, think of others.

Q. Refresh your mind. We will wait on you. We would like you to give the names and calling of any others.—A. I have given those gentlemen.

Q. But any in addition, if you remember others?—A. I remember to have heard Judge J. L. Pendery speak of him.

Q. Can you recall the name of any other?—A. That is all I remember now.

Q. You were well acquainted in Leavenworth at the time McConnell lived there, you say?—A. Yes, sir, I was well acquainted there.

Q. Where had you lived before you went to Leavenworth?—A. Lafayette, Indiana.

Q. Do you not know the fact that the men whose names you have given, a portion of them at least, had personal political quarrels with McConnell?—A. No, sir, I do not know anything of that kind. I know that most of them whose names I have given belonged to the same party that Mr. McConnell was connected with when he was in Leavenworth. It was just the reverse, as I understand it.

Q. Did you ever talk with any other person whose name you can recall in reference to McConnell, except the persons you have named this morning in your testimony?—A. I may have talked to a great many others, but I do not now remember any others.

Q. Did you talk to the gentleman who testified just before you this morning in reference to this matter?—A. Yes, I have talked to him about it. I did not think of him.

Q. Did you ever talk to him until you came here in reference to McConnell in any way?—A. Until I came here this morning?

Q. Until you came to the city?—A. I do not remember to have talked with him before I came to the city, though I might have done so.

Q. Did you know in any way before you left home that you would be relied upon as a witness in this case?—A. I did not.

Q. What profession or pursuit did McConnell follow in your city?—A. He was connected in some way for a while with the Commercial, I think, a newspaper published there.

Q. Was he the editor of that paper?—A. I do not think he was an editor; still I am not positive about that. He was probably "local." He may have been the local editor for a short time.

WASHINGTON, *May* 3, 1872.

BURRILL B. BATTLE sworn and examined.

By Mr. BARNES:

Question. Did you vote for Senator Clayton for the Senate of the United States at the first election?—Answer. At the first election I voted for Senator Clayton.

Q. Why? Give all the reasons.—A. My reason for voting for him was, I could not elect a man of my own party. I knew of no one that we could elect of the politics of our party, I thought that by the election of Governor Clayton Lieutenant-Governor Johnson would probably be governor of the State, and I thought Johnson would make a governor acceptable to a majority of the people. That was my reason for voting for Senator Clayton.

Q. Were there no other reasons that influenced you or induced you to vote for him growing out of your election, or any pledges that were made by you at or before that election, or by your friends for you, that influenced you in your course? State the facts.

By the CHAIRMAN:

Q. At the time indicated by this question, at or about the time of your candidacy and your election, was there any bargain, arrangement, or understanding, direct or indirect, of any kind or description, through or by which you were induced to vote for Governor Clayton?—A. I will state this: I made no pledge to vote for any one for the United States Senate. I entered into no agreement with any one to vote on any conditions. I do not now remember being informed by any one that my friends made any such pledges or agreement; but after the election, I was informed that my friends had agreed with the friends of Governor Clayton, or assured them rather, that I would vote for Governor Clayton in preference to Brooks or McDonald for United States Senator if I was elected. I do not now remember of having received any such information of any assurance or agreement until after the election.

By Mr. BARNES:

Q. Did the pledges made by your friends for you influence you in any way in your course in the votes you cast for Clayton?—A. They did to some extent; I would regard their pledges, as a matter of course, to some extent.

Cross-examined by Mr. BOWEN:

Q. You have given your reasons for voting for Governor Clayton at the first election. Why did you not vote for Governor Clayton at the last election?—A. My principal reason for not voting for him the second time was because I could not by his election make Lieutenant-Governor Johnson *ex officio* governor of the State. Another reason was that his political course was not such as I approved. Those were the principal reasons. There might have been others operating on me at the time.

Q. Do you refer to his political course after you had voted for him the first time, or his general political course before as well as after?—A. His general political course before, of course.

Q. Then the pledges of your friends did not influence you to really vote for him at either time?—A. No, sir; as I understood their pledges or assurances, I was to vote for him only as a matter of choice between Governor Clayton—Senator Clayton as he is now—and Joseph Brooks and Alexander McDonald. As between these three, my friends pledged me to Clayton.

Q. It did not reach at all to the case of your being able to elect a man of your own party?—A. No, sir; at least I did not so understand it. I do not know what the agreement was. What I know about the agreement is from information.

Q. Did you have any understanding with Governor Clayton at any time, either directly or indirectly, before the first election, or after the first election and before the second, in regard to your vote?—A. No, sir; neither with Governor Clayton nor anybody else. If I ever said to any one how I would vote before my election, I do not remember it.

WASHINGTON, *May* 6, 1872.

J. L. PENDRY sworn and examined.

By Mr. BOWEN:

Question. Where do you reside?—Answer. At Leavenworth City, Kansas.

Q. How long have you resided there?—A. Sixteen years on the last day of this month.

Q. Are you acquainted with Colonel H. L. McConnell, now a resident of Arkansas, formerly of Leavenworth?—A. Yes.

Q. Did you know him when he resided in Leavenworth?—A. I did.

Q. Do you know what his general reputation was?—A. I know his general reputation—the one that he had there.

Q. State what it was.

Mr. MORRILL. You mean his general reputation as a man of truth and veracity?

The WITNESS. That is included in it.

Mr. MORRILL. That is a precise question. The precise question is, do you know what McConnell's general reputation for truth and veracity in that community was?—A. I think I do.

Q. (By Mr. BOWEN.) Tell what it was.—A. It was bad.

By Mr. MORRILL:

Q. State how general was this reputation.—A. It was pretty general for a city of that size. It was generally talked of among members of the bar. His reputation was very bad. He was a member of the bar and brought in contact with them. My partner, at the time, was county attorney——

Mr. BARNES. I object to all that.

The WITNESS. That is my means of knowledge.

Mr. MORRILL. I do not think that is important.

Cross examined by Mr. BARNES:

Q. How long did you know McConnell at Leavenworth?—A. I cannot give you the exact time, but all the time that he resided there. I think probably it was at least a year. I should judge so.

Q. How many persons can you name that you heard say his general character for truth and veracity was not good? Name them.—A. I have heard H. T. Greene, a lawyer of our bar; Thomas P. Fenlin, Judge Cleftner, Mr. Johnson, clerk of the criminal court, who had occasion to know him officially, and most of the younger members of the bar; Mr. Callahan, who was judge of the police court. I could not name all, but I have named a good many.

Q. Were you not a personal enemy of McConnell?—A. No, sir.

Q. Were not the men you have named his personal enemies?—A. Not that I am aware of.

Q. Do you not know that they were his enemies, growing out of political struggles in that community?—A. No, sir. Most of these men were on the same side of politics that he was at that time.

Q. Did you agree with him then in politics?—A. I think I did.

Q. What was your political faith at that time?—A. Democratic.

Q. Were all these gentlemen that you have named democrats?—A. I believe all except Johnson. I think so. They were conservative democrats.

Q. Do you not know the fact that some of the gentlemen you have named had personal difficulties with McConnell?—A. I cannot call to mind any. If they had, it has either slipped my memory or I never knew it.

Q. Do you remember what business McConnell was engaged in while he lived in that community?—A. I believe he was a local editor, wrote some articles for the paper, and then he got admitted to the bar. He was around the police court a good deal till he got into a difficulty himself there.

WASHINGTON, *May* 6, 1872.

POWELL CLAYTON recalled.

By Mr. BOWEN:

Question. Are you acquainted with General John Edwards?—Answer. I am.

Q. State the circumstances attending the granting of the certificate to General Edwards as member of Congress from the third district of Arkansas during the time you were governor?—A. I will say that I was absent at the time the election was held. Upon my return to the capital, I think it was the night of the election or the next day, I was informed that gross irregularities had been practiced.

Q. State the first notice you had of the alleged frauds in Pulaski County—the first time they were brought to your notice?—A. That matter was brought to my notice immediately after the election by a large number of persons, and soon after it was brought to my notice in what might be said to be an official way by a petition accompanied by several affidavits, which are already in testimony here. When the time arrived for me to issue the certificate, I found that it was almost impossible for me to determine as to who was elected. I found in the office of the secretary of state for three precincts in the county of Pulaski two sets of returns of different elections. I had information to the effect that in five precincts the polls had been usurped. I did not feel authorized, however, to investigate that matter. I did not think the law gave me authority to investigate those questions; and, under the circumstances, after a great deal of reflection, I determined to await the assembling of the legislature, and to await the action of the supreme court, which was being had I think about that time, upon a writ of mandamus against the county clerk, for the purpose of requiring him to send up returns. I think the opinion of the court may have been had, though, at the time we came to canvass the vote; but I will not be certain about that. When the legislature assembled, as has already been shown in the testimony here, a committee was raised of both houses for the purpose of investigating

:se transactions. The result of the investigation of those committees ıs reported to the senate and the house. When the senate committee ported, I felt authorized to act upon the facts as elicited by that in-:stigation. I did not feel that the action of the legislature gave me ew authority; but new facts—facts that I did not have before; and ıpon those facts I issued the certificate. Where they had two sets of polls I threw out the returns of both, and where the polls were usurped or appeared to be usurped by the report of the legislative committees, I threw those out, and by doing so it appeared that Edwards was elected, and I issued the certificate accordingly, leaving it for Congress to determine the facts as to whether these elections were legal or not.

Q. Are you not mistaken about throwing out both polls?—A. No; I am not mistaken about it.

Q. State what bargain, if any, there was between you and John Edwards in regard to the issuance of the certificate?—A. There never was any bargain, understanding, or agreement, either directly or indirectly, with John Edwards or any other human being in relation to the issuance of that certificate.

Q. State what was the conversation between yourself, Fulton, and Lewis at the time mentioned by Fulton at Monticello, the day of the second convention?—A. I should have to tell all about that circumstance to make it understood. As has been before testified, there were two conventions called in that district. One had met in Chicot County and one was about to meet in Monticello, at the time Dr. Louis and myself were there. I was very anxious to prevent two tickets being put in the field. I was anxious to have the party harmonized, so that there should be one ticket, and I exerted myself to that effect.

So far as any conversation with Fulton is concerned, I had no conversation with him until after the convention met, and until after the ticket was nominated. Dr. Lewis, I think, had some conversation with him, but I do not know what the purport of that was. When the convention met the delegates to both conventions met together and compromise by putting men of both sides upon the ticket. So far Fulton is concerned, after the convention met I had, I suppose, about five or ten minutes' conversation with him. He did not pledge himself to support me, nor did I understand he would support me. said that his objection to my being elected was that Governor Johnson would succeed me. He said he had no objection to me personally, but that he was instructed by the former convention to vote for Mr. McDonald, and he did not see how he could do otherwise than do so. I merely talked to him upon the general result and general matters, about harmonizing the party, &c. Nothing was said at about his supporting me for the Senate. He did not say he would, I did not ask him to further than this: I think I did say I would to get the support of the colored members. I think I told him if I was a candidate I should like to have their support.

Q. I now call your attention to a conversation as detailed by A. A. C. Rogers in his testimony as having occurred at your house which he says, among other things, "I said, however, that I had to know whether or not we were to have a fair election; that I did want to spend my time going into a canvass where the cards stocked upon me. The governor smiled, and was pleasant enough that it very much depended upon circumstances as to the course would pursue in the election. We were talking particularly in regard to my own election at that moment. I told him that I had no

in the other matter at all; that I considered myself out; I was an outsider." State your recollection of that conversation.

The WITNESS. I have a general recollection of the conversation that took place; I will tell all that I recollect as bearing on this question. Colonel Rogers did call upon me in my house; we had a conversation on my front porch in the evening; I was very guarded in what I said; I knew that he was about to be a candidate for Congress on the democratic ticket, and I let him do most of the talking. In the course of the conversation he asked me what would be my course in the coming election—what course I would pursue; and, I think, he made some allusion to the election of 1868; I think he said that if the same course was to be pursued, as was pursued then, of throwing out counties, &c., he would not become a candidate; I told him that my course in the election would depend very much upon circumstances; that if the Ku-Klux undertook to organize—if the democracy undertook to carry the election by intimidation and by violence, as they had the election of 1868, I should interfere; that I should protect the loyal and peaceable people there under circumstances of that kind, with all the power at my disposal; but, on the contrary, if the election was peaceable, if there was no intimidation, no organization of Ku-Klux; if men were allowed to vote their sentiments, and express their sentiments, I should permit the election officers to conduct the election without any interference on my part. That was about the substance of the conversation. Mr. Rogers has certainly either perverted my language very strangely or misunderstood me, if he attempts to give the idea that I said it would depend on circumstances whether there would be a fair or unfair election. I never said anything of the kind. On the contrary, I tried to impress on his mind that I intended there should be a fair election, and that I would intervene if there was any attempt to prevent one.

Q. I now call your attention to the testimony of H. L. McConnell, in which he says: "After the second senatorial election, the conversation was in relation to the election. I remarked to him that I supposed it had drained him pretty heavily; to which he replied yes; that the fight had cost him a great deal, somewhere in the neighborhood of $20,000." State, if you please, how much of that is true, and how much false.

The WITNESS. I will state about what there was of it, according to my recollection. I presume the time he alludes to was soon after the election, when he approached me to borrow some money of me. He calls it borrowing, I suppose. I told him that I was pretty well exhausted; that I did not have any money at that time, and I might have said that the fight, to use his words, cost me a great deal of money; and I say now, if it will be any satisfaction to the gentleman, that the fight did cost me some money; and if you can tell me any way of conducting a political fight for two years without paying money, I should like to be informed. It cost me money in various ways; in traveling around through the State; in wine-dinners, parties, and things of that kind. When I told McConnell that it had cost me a great deal of money, I had reference to that kind of expenses; I had no reference whatever to the improper use of money. It was more a kind of joking remark than anything else.

Q. (By Mr. BOWEN.) State what occurred between yourself and McConnell in regard to the sheriffalty of Crawford County.—A. I do not recollect much about that. I remember that McConnell was constantly making propositions to me. I have a very indistinct recollection of his coming to me and speaking to me about the sheriff's office of Crawford County. McConnell had been living up there; professed to know all

about the men and the condition of affairs in that county; but I ha no recollection whatever of making any promises or pledges to h about it. I know that I never made any proposition to appoint M Whitesides in consideration of any influence he might exert over t legislature in regard to my senatorial election.

Q. Did you ever attend any legislative caucus during the session 1871?—A. I never did; I was particularly careful to avoid it. I do n think I was present at the time the senate met. If I attended any o at all it was that, but I do not think I was present then. On reflectio I am sure I was not.

Q. State what, if anything, you had to do with the originating o putting on foot the investigation in the legislature of the violent a insurrectionary proceedings in the county of Pulaski?—A. I had not ing to do with it at all. I might have said, perhaps in conversatio that I thought they ought to be investigated. I would not have co sidered it improper to send a message to the legislature to that effe but I did not do it.

WASHINGTON, *May* 8, 1872.

POWELL CLAYTON'S examination continued.

Mr. BARNES. At present I have no questions to ask the witness.

By Mr. BOWEN:

Question. I want to ask one general question that I did not ask ye terday. I will ask you now the general question, if you ever had a trade or bargain with any person, or authorized any other person make a trade or bargain for you by which democrats were to supp you for the position of United States Senator? State what it was.

The WITNESS. I never had any trade or bargain with any perso whereby I was to receive democratic support for the United States Se ate, nor did I ever authorize any person to make a bargain to th effect.

Q. (By Mr. BOWEN.) Did you ever ratify any bargain made by any one else to that effect?—A. I never did.

APPENDIX.

Affidavits and propositions of proof admitted in evidence by Senator Clayton.

Deposition of GEORGE C. WATKINS, (in Boles *vs.* Edwards,) taken at same time and place and for the same purpose as stated in the caption; being of lawful age and first sworn, deposeth and saith for contestant:

Queston. State your age, residence, and occupation.—Answer. My age is aboutfifty-five years; have resided in Little Rock for fifty years; am a lawyer by occupation.

Q. Have you ever held any public positions; and if so, what?—A. Yes; I have been attorney-general of the State, and chief justice of the supreme court of the State.

Q. To what political party do you belong now; and what political party have you generally acted with?—A. I have belonged, ever since 1868, to that party which was in opposition to the Federal administration,

and the party in power in this State; previous to the war I belonged to and acted with the democratic party.

Q. Who did you support for Congress in 1870—General Edwards or Judge Boles, parties to this contest?—A. I did not vote for either of them; I desired the election of General Edwards, and used what little influence I had in his behalf.

Q. Did you, at any time after said election, have a conversation or conversations with Colonel R. S. Gantt, who gave his deposition in this case on yesterday, in reference to the withdrawal by him and Dr. Mitchell of their contests for seats in the last legislature of the State of Arkansas, and also in reference to issuing the certificate of election to General Edwards, contestee in this case? If so, give, as well as you remember, said conversations, and all you know touching said matters.—A. During the session of the legislature last winter, and after the subject of what were called the election frauds in Pulaski County had been investigated in the State senate, and I think after a report had been made in the senate, I was called upon in my office by Mr. E. H. Chamberlain, who had been elected or admitted as a member of the house of representatives, in regard to the matter inquired about. He represented to me that it was important to have those election frauds, as he termed them, investigated and reported upon by a committee in the house, as they had been in the senate, but that serious obstacles to that had sprung up in the house in consequence of the fact that such an investigation and report would or might have the effect to unseat Pilkington and Goad; that they were both good republicans; and that Goad, especially, since he had been in the legislature, had made a good many friends among republican members, and they would oppose or defer any action on that subject of investigation. Mr. Chamberlain seemed to understand that R. S. Gantt and Dr. Mitchell did not desire a seat in the general assembly. I think he said they had so expressed themselves to him. What he wanted me to do was to see R. S. Gantt, and get him and Mitchell to agree to withdraw their contest for their seats in the house of representatives, or place the matter in such a position that he, Chamberlain, would be authorized to assure members of the house that the effect of such an investigation would not be to unseat Pilkington and Goad. He also stated to me that after such investigation and report, if the votes in Pulaski County reported to be illegal were thrown out, the governor would be authorized to reject them in the congressional count, and issue the certificate to General Edwards, and he was quite urgent for me to see R. S. Gantt on the subject that day. The foregoing is an explanation of the reason, and the only reason, I had for calling on R. S. Gantt on the subject inquired about. I did see him that afternoon. He refused to do anything about it unless he had an assurance, in writing, from some one authorized to give it, that the effect of the withdrawal of Dr. Mitchell and himself would be to secure the issuing of the certificate to General Edwards. I ought to have stated that Dr. Mitchell was in White County, but R. S. Gantt told me he had full authority to act for him, and I have other reasons for knowing that such was the fact. I saw E. H. Chamberlain again that day, and he said it was impossible for the requirement of Mr. Gantt to be complied with. He then suggested that the matter might be accommodated in this way—that is, for Gantt and Mitchell to make out their formal withdrawal, in writing, for the contest for seats in the house, and leave it with Mr. Garland or myself, to be used only in the event that Edwards got the certificate. I saw Mr. Gantt again that day, and he said he would do

nothing about it without time for reflection until the next morning. The next day, about 12 or 1 o'clock, he called to see me. He said he had seen Mr. Garland that morning, and had made up his mind to pursue the course indicated. He handed me two papers—one being a formal withdrawal of himself and Mitchell from the contest for seats in the house, and also a paper to the effect that said withdrawal was not to be used in any way or to go out of my possession unless Edwards got his certificate. I was authorized to show those papers to Mr. Chamberlain, which I did in a few minutes after I received them, and he said they were satisfactory. This embraces, I think, all I know in relation to the subject inquired about.

Q. Where are the two papers referred to in your answer to the question propounded by contestant?—A. They are in my possession.

Q. Will you produce and file them as evidence and exhibits in this case?—A. I should be obliged to decline doing so without permission from R. S. Gantt.

Q. Will you furnish and file as part of your deposition copies of said papers?—A. I will do so if R. S. Gantt authorizes me to do it.

Q. Do you decline to file copies of said papers unless R. S. Gantt authorizes you to do so?—A. I will see R. S. Gantt, and if he objects I will hand them to him.

Q. Do you remember the dates of said documents, or either of them? If so, state the dates; and if said papers contain any other facts or statements, tell what they are.—A. I do not remember the dates with anything like certainty. They contain nothing but what I have stated in substance. I have not looked at them since the day they were handed to me.

Q. Was General Edwards in the city of Little Rock when you held the conversations and received the papers named?—A. He was.

Q. How long had said Edwards been in the city, and how long did he remain after the occurrences named?—A. He was some days before and after; I can't say how long.

Q. Did you inform General Edwards of what had occurred as detailed by you, and if so, when and where?—A. The day that Chamberlain called on me General Edwards met me, I think, on the street, and inquired of me if Mr. Chamberlain had been to see me, and inquired the result; I told him how the matter stood, as I have before stated, there being no result. As he seemed solicitous on the subject when I met him again the next day, I told him the result, as above stated.

Q. Do you remember who was in company with General Edwards at the times you had the conversations with him, named by you? And if any persons were present name them.—A. No one else heard our conversations.

Q. Have you any knowledge, direct or indirect, that Governor Powell Clayton authorized Chamberlain to make the propositions to you named in your deposition?—A. I have not, only at the time he professed to be acting as the friend of Governor Clayton, as I understood him.

Q. Do you or do you not know the fact, and was it not generally understood in this community, at and before the times and occurrences named, that said Chamberlain was a warm and active supporter of Governor Powell Clayton, and in favor of his election to the Senate of the United States?—A. Mr. Chamberlain's position in the legislature seemed to be, in many respects, equivocal, both as to measures and his adherence to Governor Clayton, but my understanding from him

and others was that he was in favor of the election of Governor Clayton to the United States Senate.

Q. Did you advise Colonel R. S. Gantt to accept the propositions made or submitted to you by Chamberlain, and were you anxious for the arrangement?—A. I did so advise him, and desired the arrangement to be made.

Q. At the time of the advice, in your last answer named, had Governor Clayton been elected to the Senate of the United States?—A. It was after his election and before it was understood or announced that he declined the position. After that there was another election and Governor Clayton was elected.

Q. Why was it that you desired Gantt and Mitchell to abandon their contest and have Edwards obtain the certificate of election, and when did the occurrences, alluded to by you in the last foregoing question and answer, take place? Tell, if you can, upon reflection.—A. I cannot state the time with anything like accuracy; I am quite sure it was about a week or ten days before I saw a notice in the papers of the city of R. S. Gantt having, the day before, sent in a communication to the house to effect, as well as I remember, that he and Dr. Mitchell had only agreed to withdraw their contests for seats conditionally. I desired Gantt and Mitchell to withdraw if it would have the effect to give General Edwards his seat in Congress, because I knew that they did not desire a seat in the house of representatives of the general assembly, and because I was persuaded, from what had transpired in the legislature, that they would not get their seats any way, or that they would be held out from their seats until it was too late for them to do any good, and because I knew from General Edwards that he was conservative in his views, opposed to any State disfranchisements going beyond the 14th amendment, and strongly opposed to the frauds and corruptions practiced in the administration of the government of this State, and the high taxes imposed on the people. And he pledged himself to me that he would use every every effort in his power to remedy those evils.

Q. Do you know that about the time that the negotiation for the withdrawal of Gantt and Mitchell on the consideration that a certificate of election should be issued to General Edwards, that it was understood that Governor Clayton was pledged not to accept his election to the United States Senate unless Lieutenant-Governor Johnson were removed from the possibility of succeeding as governor; and do you not know that at that time an effort was pending both in the legislature and supreme court to remove him, Johnson; and do you not know that before Clayton's second election to the United States Senate that Johnson was persuaded to resign as lieutenant-governor and accept the position of secretary of state, and Senator Hadley, a friend and supporter of Clayton, succeeded as governor?—A. It was understood that Governor Clayton would not go to the United States Senate if Lieutenant-Governor Johnson succeeded him as governor; I know that efforts were then being made in the supreme court and in the general assembly to have Lieutenant-Governor Johnson removed; I was absent from the State when Johnson resigned; I know that he did resign, and that Mr. Hadley, president of the senate, succeeded Governor Clayton as governor.

And further deponent saith not.

GEO. C. WATKINS.

STATE OF ARKANSAS,
County of Pulaski, City of Little Rock, ss:

Henrietta Parish, being duly sworn, says that she resides in said city, and is the wife of William M. Parish, of said city. That on or about the 1st of October, 1871, one H. L. McConnell, who had formerly been local editor of the Little Rock Republican, was occupying a room as a bed-room in the second story of the residence then occupied by affiant and her said husband, on Third street, in said city. That on or about said 1st of October, 1871, affiant heard the door-bell, attached to the front-door of her said residence, ring, and a boy about sixteen years of age waited on the door; after opening the door he came back into affiant's room, and reported to affiant that a policeman and another man were going up into said McConnell's room, affiant then stepped into the hall and saw two men ascending the staircase which led up to said McConnell's said room. One of said men had then ascended said staircase so far that she could only see his feet, the other man she then spoke to, asking him where said McConnell was. He then made some reply with regard to said McConnell's whereabouts, which affiant does not now recollect. This affiant has resided in said city all her life and has often seen Ex-Governor Powell Clayton, and now states that the said person with whom she had said conversation in her said hall was said Powell Clayton. That affiant thereupon sent for her said husband to his store, in said city, and said husband immediately came to his said residence, and went into his bed-room and armed himself with his pistols, and then went at once to said McConnell's room. That this affiant was busy about the house when said Clayton and said other person came down from said room, and left said house, and did not see either of them again in her house. And further said deponent saith not.

HENRIETTA PARISH.

Subscribed and sworn to before me this 26th day of March, as witness my hand and official seal.

[SEAL.] N. W. COX,
Clerk Supreme Court of Arkansas.

STATE OF ARKANSAS,
County of Pulaski, City of Little Rock, ss:

William N. Parish, being duly sworn, says that he is a merchant residing and doing business in said city; that on or about the 1st of October, 1871, affiant's nephew, about sixteen years of age, came to him at his store in said city and informed him that two men had gone up into the room of one H. L. McConnell, (who was then occupying a bed-room in this affiant's house, on Third street, in said city,) and that this affiant's wife desired him to come immediately to his said house; that this affiant then went at once to his said house, and went to his room and procured his pistol, and went immediately to said McConnell's room, up-stairs. When affiant entered said room he saw Ex-Governor Powell Clayton and the chief of the police of said city, one Frank Vance, in said room; that this affiant has resided in said city for twenty years, and has very often seen said Clayton, and has spoken with him on business, and knows him well; and this affiant is able to state positively that said Clayton was in said McConnell's room at the time above set forth. That said Clayton, when affiant entered, was close by a trunk belonging to said McConnell, and was engaged in removing and examining papers from said trunk, and placing them in a chair. This affiant then and there saw said Clayton open

papers which he had taken out of said trunk, and examine the same, and some he would place in the chair, and some he would throw back into the trunk. That said Vance was then engaged in removing papers from a closet in said room, and examining the same, and the two seemed to be making a general search of said room for papers. That affiant inquired of said persons what they proposed to do. Said Clayton replied that he was looking for papers that belonged to him, and he proposed to take them away. This he said in a peremptory tone, and without any further explanation. Affiant then inquired where McConnell was. Said Clayton answered that said McConnell was drunk. Affiant rejoined that that was not answering his question. Said Clayton then asked if affiant was the owner of said house. Affiant answered that he was. Said Clayton then said that said McConnell was at the Senate saloon, on the corner of Markham and Louisiana streets, drunk. Affiant requested said Clayton to leave the key of the said room with the affiant when said Clayton got through with it, as he did not care about persons coming into said McConnell's room in his absence. Said Clayton replied that he didn't care who had the key, but on leaving declined to give it to me, and said he had better give it to McConnell. When they left the room said Clayton took a large package of papers with him, which he had taken from the said trunk and from other parts of said room. After leaving the room said Clayton handed the key of the room to said Vance, and told him to give it to said McConnell. Affiant went with said Vance to the Senate-saloon corner, and said Vance then requested affiant to wait in the street until he could find said McConnell. Said Vance then went up-stairs over said saloon, and soon came down and stated that he had delivered said key to McConnell, and told me what room affiant could find him in. Affiant then went up to said room and found that said McConnell was there, sitting in a chair, quite drunk. Said Clayton left affiant and said Vance at affiant's gate, and started toward the State-house. And further affiant saith not.

W. N. PARISH.

Subscribed and sworn to before me this 26th day of March, 1872, as witness my hand and seal.

[SEAL.] N. W. COX,
Clerk Supreme Court of Arkansas.

V. Dell, of Fort Smith, Arkansas, will prove that he was a senator in the Arkansas senate during the session of 1871, commencing in January. He will prove that Mallory, Elliott, and himself were the senators appointed to investigate the alleged election frauds in Pulaski County. He will prove that Mallory, a friend and partisan of Clayton, made what is known in this case as the "Mallory" report, in the absence of Elliott and himself, and without their consent or knowledge, and that it was adopted without their consent; that from the best information he and Elliott had, they would have made a majority report adverse to the Mallory report. He will prove that the premature report of Mallory and discharge of the committee prevented any other report. He will prove that Clayton's friends, by his consent and procurement, brought about the Mallory report to aid him in his purpose to issue the certificate of election to General Edwards, and he will, as is verily believed, prove other very material facts bearing on the case which cannot now be specifically set out.

VIEWS OF THE MINORITY.

Mr. NORWOOD submitted the following as the views of the min

As the minority of the committee of three appointed by the S to investigate and report upon certain charges made against Se Clayton, I have been unable to agree with the majority in the co sions to which they have come, and I therefore beg to submit t Senate the conclusions to which I have arrived after a careful revi all the facts.

I regret that the majority of the committee did not see fit to lay b the Senate, embodied in their report in abstract form, more of the f as it would have enabled me to express my views in much shorter pass. I will, however, embrace none which I do not consider nece to a correct understanding of the case as made.

The general charge made against Senator Clayton is, that he corrupt means to secure his election to the United States Senate. general charge embraces several specifications, to wit:

1st. That he corruptly used his executive power as governor o kansas in 1870 in appointing registrars of election to register vot members of the general assembly, by which he was elected a U States Senator, who, as his friends and in his interest, would re with a view to elect candidates in favor of him for the Senate.

2d. That, when primary meetings were being held in the count nominate candidates for that legislature, he went about the State in person and by his friends and agents, manipulated these nomin in his own interest; and to effect this end, used his executive patr to intimidate candidates opposed to his election to the Senate.

3d. That he either in person, or through his friends and supp for the Senate, made a corrupt engagement, express or understoo which his influence was to be given in favor of the election of Ge John Edwards, the democratic candidate for Congress, in consider of the support to him of Edwards and his supporters for the Sen

4th. That, in pursuance of this understanding, he issued to Ed the certificate of election in the face of a clear majority, accordi the official election returns in his (the executive) office, in favor of Boles, the republican candidate opposing Edwards.

5th. That, being under a pledge publicly and privately made t political friends, that he, if elected United States Senator, woul leave the governorship in the hands of Lieutenant-Governor J. M. son, a conservative, he corruptly instituted through his friends an porters a proceeding by *quo warranto* to depose Johnson from offi order to clear the way to the Senate.

6th. That, being elected senator while the *quo warranto* was pen when that was decided in favor of Johnson, he resigned the senato and afterward secured his re-election by inducing R. J. T. White, tary of state, in consideration of a large sum of money, to resign inducing Johnson to take White's place.

7th. That he corruptly procured the votes of many members c legislature, in support of himself for the Senate, by paying mone appointments of themselves and friends to lucrative offices; by g ing to them and their friends State aid to railroads in which the their friends were interested.

Before proceeding to state the testimony bearing upon and susta these specifications, I will remark, in order that the Senate may a

ciate the extent to which Senator Clayton must have wielded his executive power, the energy he must have displayed, and the means he must have employed to make sure his election, and to increase the probability of the truth of witnesses who detail these means, that his contest for a seat in the Senate extended over a period of two years. This fact he states near the close of his own testimony, when endeavoring to explain the statement made by H. L. McConnell, his former private secretary and political supporter, that Clayton told him the day after the second election "the fight had cost him (C.) in the neighborhood of $20,000." His extreme desire to be a Senator likewise throws much light on many acts whose full force might not otherwise be realized. In a conversation held by Clayton, Lieutenant-Governor Johnson, Thomas M. Bowen, Joseph Brooks, and J. L. Hodges, a short time before Clayton's second election, Brooks and Hodges both testify that Clayton stated he had long earnestly desired to be a Senator; that it was the dream of his life; that he was as ambitious as Cæsar; and that had he his way he would sway the scepter of universal empire.

I would further state that by the laws of Arkansas, under her new constitution, the governor is clothed with unusual power and patronage. It is sufficient in this connection to say that, with all the other power and patronage incident to the executive of each State, he has the power of appointing judges, sheriffs, and justices of the peace. We will have frequent occasion to remark with what vigor, if not rigor, such power, energized by such desire and ambition, was brought to bear in his senatorial contest on friend and foe.

The contest was exclusively republican. Clayton had two opposing aspirants, McDonald, former United States Senator, and a negro named White, both republican. The legislative, executive, and judicial officers were all republican. There was no hope for a democrat to succeed. Of eighty-one members of the house in 1871, fifty-eight were republicans and twenty-three democrats, as stated by Tankersly, the speaker. The oppressive disqualification of votes excluded a sufficient number of democrats from the polls to throw the power (except in a few counties) into the hands of the republican party. And such was and is the extraordinary power confided to registrars of election, to receive or reject a voter's name—and to the board of review to retain or erase the names of voters registered—that the control of a governor over an election, by appointing his friends and supporters on those two boards, was only limited by his own integrity and that of his appointees.

In this contest the republican party, being overwhelmingly strong, split by its very weight into two factions. They came to be known respectively by the names of "Brindle-tails" and "Minstrels." Either claimed to be the elect. Governor Clayton led the latter, while Joseph Brooks was the acknowledged head of the former. The hostility felt toward each other was very bitter. Around either leader were gathered many ardent defenders. And as exemplars of the characters who were from first to last the warm and confidential friends of Governor Clayton, I beg to give what the evidence shows to be the *morale* of the most prominent of those whose acts and sayings during the senatorial struggle are very important in determining the charges made against Senator Clayton. For from their confidential relations to him, from their constant conference with him during and before and after the session of the legislature which elected him, from their interest in his success and dependence on him for office and other favors, we are enabled to decide to what extent their acts and sayings were the acts and sayings of Governor Clayton.

We learn, also, with what kind of men Governor Clayton used to accomplish his purposes. His chief adviser and constant attendant was Thomas M. Bowen. There is scarcely a witness who testifies to an interview with Governor Clayton during that contest, extending through two and a half months, who does not speak of Bowen being present. He attended all the caucuses of Clayton's friends, was a regular lobbyist, during the session, for Governor Clayton, was most of his time in the executive office, and was present at several long, protracted interviews, held at night between Governor Clayton and others of the opposition, whom Governor C. was endeavoring to appease. Judge Bowen's motto, as testified to by Brooks and Hodges and undenied, was, "*politics is but a game*," and that the admission or non-admission of a contestant for his seat in the legislature *is a mere question of party policy*. This declaration of political ethics will be seen bearing its fruit in the subsequent conduct of its author.

Another adviser and confidential friend was John McClure, chief justice of the supreme court, the appointee of Governor Clayton. The testimony shows that he was frequently with Governor Clayton during his contest; that he was editor of a partisan gazette in Little Rock, advocating Governor Clayton's election to the Senate while occupying the supreme bench; that as such editor he accepted a large sum of money from the friends of a bill to silence his opposition to the bill; and that he, during that time, engaged, or offered to engage, for a large sum, to lobby a bill through the legislature. These facts, except the last, he establishes by his own testimony in this investigation. A third warm and zealous co-worker for Governor Clayton's election was Judge Bennett, also of the supreme court of Arkansas, and appointed by Governor Clayton. The testimony of W. R. Rogers throws much interesting light on his character. He was a hotel-keeper in Illinois, failed, joined the Federal Army, went to Arkansas as a captain, resigned, and read law; was appointed about a month after his admission to the bar by Governor Clayton as circuit court judge, and was soon after (during the session of that legislature) appointed by Governor Clayton to the supreme bench. His influence with Governor Clayton was supposed (says Rogers) to be greater than that of any man in the State, and hence, during that session of the legislature, while Bennett was on the supreme bench, he accepted from Rogers, and others interested in a large railroad bill, a proposition to use his influence with the board of railroad commissioners (composed of Governor Clayton, White, secretary of state, and one Thomas) to procure a grant of State aid to the road, and charged $70,000 ($1,000 per mile) for his influential service. His influence was effective. The aid was granted, the bonds were issued, and Bennett received from Mr. Dorsey (interested with Rogers) $35,000. During the senatorial contest he was very often in Governor Clayton's office and on the floor of the house.

Another scarcely less conspicuous character, and equally zealous supporter of Governor Clayton for the Senate, was Charles W. Tankersly. He is a Virginian; joined the confederate army; deserted; joined the Federal Army; "misappropriated public property," (a horse;) was dismissed the service, and retired to private life in Philadelphia till the war closed. He then went to Arkansas; enlisted under Governor Clayton in his contest for the Senate; was elected a member of the legislature; was nominated by Clayton's friends for speaker and elected. McLane swears that Tankersly told him Governor Clayton sent for him (T.) before the legislature assembled and requested him to run for speaker. It will be seen that in this contest he was not a deserter, but was true to his col-

ors, and received, after Clayton's election, his reward in his appointment as superintendent of the penitentiary.

Another and very prominent actor in these scenes, and a devoted friend of Governor Clayton, was O. A. Hadley. He was a senator in that general assembly. He was General Clayton's agent to make the offer to R. J. T. White to pay him a large sum of money to vacate his office, and thus remove an insurmountable obstacle to Clayton's election to the Senate, as I shall show hereafter. That being accomplished, Hadley was elected president of the senate, (*vice* J. M. Johnson, who took White's place,) and while governor he continued to preside over the senate until certain bills (such as the levee and others) were passed. As this dual service as president of the senate and governor was contemporaneous, and the first office was resigned just after these immense money bills were passed, it may not be amiss to state that the witness McLane swears that Chauncy Stoddard, who paid McLane a large sum ($5,000) in bonds to silence his newspaper and to get his services as a lobbyist for the levee bill, and who, by his own testimony, stands convicted of bribing other members of the legislature to vote for the levee bill, told him (McLane) that he (Stoddard) paid Hadley $20,000 in bonds for signing the levee bill. This Hadley denies, while Stoddard says he does not know the name of but one member, named Prigmore, who got the bonds, though he had reason for knowing that others shared them. As, however, the fact is not denied by any witness, not even by Clayton or Hadley, that Hadley bought off White, it is not much of a strain on even human charity to believe that a man in the market to buy will not arouse a sleeping conscience to stand guard against his being bought.

There are other actors in this drama whose moral figures would not compare unfavorably with those already, but partially, delineated; but as I have sketched the chiefs, I leave the others to speak for themselves through their own and the mouths of other witnesses, and will now proceed to a summary statement of the facts. And in doing so, as a matter of convenience, and to economize time and space, after once introducing a party or witness by his full name, I will employ only his surname.

I will take the specifications in the order in which I have arranged them, and while I treat each separately for the purpose of grouping like facts, that they may be seen at one view, as will be seen hereafter, I resolve the seven specifications into three charges, all and each of which I think the testimony and evidence sustain.

And, first, as to the corrupt appointment and use of registrars. It is not unreasonable to assume that Governor Clayton after the canvass of over a year, according to his own statements, prior to the summer of 1870, (for in March, 1871, he stated that it had extended for two years,) with his ambition to be a Senator, selected his own friends to register the electors of the general assembly, and of other officers to be elected in November, 1870. This assumption is borne out by the testimony.

In the county of Pulaski he appointed James V. Fitch and E. H. Chamberlain registrars. There is much evidence *pro* and *con* as to the fraudulent registration made by that board, and without stopping to settle the point of veracity, it is sufficient to say that without any prior announcement of his intention, Chamberlain, who was one of the most zealous of the partisans of Clayton, and worked from first to last for his election, and who was introduced as Clayton's witness in this investigation, just after registration closed, and within five days of election, on the 8th of November, announced himself as a candidate on the Clayton

ticket for the legislature; and while by the returns as set forth in the testimony of the witness J. L. Hodges, he (Chamberlain) received but 1,892 votes from the counties of Pulaski and White, constituting his district, out of a vote of about 5,000, he was returned by the secretary of state to the lower house as one of the members-elect, and obtained his seat. And from that time to the end of the disgraceful struggle, carried on in and out of the legislature for near two and a half months, for the election of United States Senator, he was not only the supporter but the confidential agent and adviser of Governor Clayton. James V. Fitch was rewarded by an executive appointment to the office of circuit clerk of Pulaski County and clerk of the criminal court, which court was created at that session of the legislature.

The witness, A. A. C. Rogers, says that in Columbia County Clayton appointed a boy from Illinois, named Ryan, registrar, and that in Hot Springs County he appointed Z. L. Cotton as registrar, who, it was generally understood, lived in the county above and out of the district, though by the law of Arkansas the governor is required to appoint a resident of the county, who has resided in the county six months before the registration.

The witness, Met. L. Jones, states that Clayton appointed a man named George A. Wilkins registrar in Columbia County, and that Wilkins was afterward appointed justice of the peace. A justice of the peace in Arkansas has jurisdiction up to $500, and the fees of office are high. That W. H. Atkins, registrar for Union County, was also afterward appointed a justice of the peace.

The witness, Jones, states that Cotton was a resident of Mount Ida, Montgomery County, while acting as registrar in Hot Springs County, and was afterward appointed clerk of the Montgomery County court.

As evidence of the sympathy existing between these registrars and Governor Clayton, I refer to an interview detailed by the witness, Met. L. Jones, between himself, Governor Clayton, and Judge Bearden. He says, such were the frauds being committed by the registrars in Columbia and Union Counties, that many citizens of those two counties met in convention, and appointed Jones and Bearden a committee to wait upon the governor and make complaint and petition for redress. He stated the case; told Governor Clayton that he had affidavits of fifteen substantial men in his county to the facts. Governor Clayton said, at first, that was *ex parte*. Witness offered to put them in proper form. Governor Clayton then said it was too late to investigate, (though the witness states the interview was fifteen days before the election, and the law of Arkansas is that registration closes only ten days before the election.) Jones then asked him to remove the registrar. Clayton replied he did not have the power; to which Jones rejoined he had already removed some. Clayton said he had, but that he thought he had transcended his authority, and that he would refer the matter to the courts. When asked if he would not interfere then, he said he would after the election. Jones said then he would apply to the courts, and Clayton told him he would not submit to that interference by the courts before the election; and if he (Jones) attempted to arrest the registrars before the election, he would treat the act as insurrectionary, and would employ force, if necessary. Met. L. Jones was an intelligent man and a lawyer.

In this connection I will give the first and second sections of the act of July 15, 1868, regulating registration of electors in Arkansas, page 52, statutes of 1868, and will state that there is nothing further in the whole act, or any other law of Arkansas, brought to the notice of

the committee, which abridges the power therein conferred on the governor.

"SECTION 1. That on or before the 1st day of August, 1868, and every two years thereafter, the governor shall, with the advice and consent of the senate, appoint three loyal, competent, and discreet citizens in each county, who shall have *resided at least six months in the county next preceding their appointment.* Said persons shall be styled and called board of registration, one of whom shall be designated by the governor as president of said board: *Provided*, That in case no such person can be found in each county within the State, then and in that case they shall be appointed from the county most convenient thereto, each of whom shall serve two years, *unless removed as provided hereinafter: And provided further*, That the governor, in lieu of one of the citizens to be appointed as above provided for in this section, may designate a justice of the peace, notary public, or constable as one of the members of the board of registration, who shall, in every such case, be designated as the president of said board; and every justice of the peace, notary public, or constable that may be designated by the governor as a member of said board for any county in this State shall, in addition to the duties now imposed upon him by law, discharge the duties of president of such board of registration according to the provisions of this act.

"SEC. 2. The governor shall fill any vacancy occurring in any of the appointments made by him, and may, in his discretion, remove any one so appointed by him, for incompetency or other sufficient cause. The secretary of state shall cause notice, by certificate, to be given to each of the persons, and shall also transmit to the clerk of the county court of each county the names of the persons so appointed as board of registration."

With this act before him, and the fact brought to his notice that he had already removed some of the registrars, he stated to Jones as a reason for not desiring to interfere with that alleged fraudulent registration in Columbia and Union Counties, that he did not have the power to remove them. His first answer was, it was too late; second, I have not the power; third, go to the courts for redress; and, fourth, you shall not resort to the courts until after the election, and, if you do, I will consider you an insurrectionist, and put you down with a military force.

To show the discretion and power of these registrars, as well as to illustrate the beneficence of the then existing government in Arkansas, and the freedom of opinion thereby tolerated at that time and now, so far as I am advised, I will quote the eleventh section of the act above referred to.

"SEC. 11. That no person shall be registered who during the late rebellion took the oath of allegiance to the United States, or gave bond of loyalty or for good behavior, *unless he shall show by satisfactory evidence that he has ever kept this said oath or bond inviolate, or that he has openly advocated or voted for the reconstruction measures of Congress, or voted for the constitution at the civil polls at the constitutional election of 1868.*"

I will remark this act was passed during Governor Clayton's term of office, and was of course approved by him. Referring to the words in the last section quoted and italicized by me, I challenge all Christendom to produce its parallel for anti-republicanism and tyranny.

It is very easy to see how, with such harsh and at the same time mobile power, lodged in the discretion of the instruments and favorites of a governor acting in the capacity of registrars, they could manipulate the election of a legislature to secure an overwhelming majority.

As evidence as to how Governor Clayton was disposed to use that power I refer to the statements of the witness A. A. C. Rogers. Rogers was a candidate for Congress against O. P. Snyder, at that election. In August, 1870, before Rogers entered the race, knowing, as he says, how registration had been conducted in the former election for Congress, in 1868, he called upon Governor Clayton to know if the people of Arkansas would have a fair election. He says Clayton smiled and said that depended very much on circumstances. What those circumstances were will appear hereafter. Rogers states that, about two weeks before the election, he complained to Governor Clayton of the abuses in registration in his district, told him that, out of about 2,200 voters in Union County, there had been registered but about 700 to 800, and that in Chicot County they were registering about 1,200 railroad hands, nonresidents, who were there employed by one Jackson E. Sickles, a railroad contractor. Rogers states, as does Sickles also, that Sickles was a personal and political friend of Governor Clayton, and desired him to be Senator. Governor Clayton said to me, "I have no control over my registrars, and I cannot do anything with it." Rogers replied, "Governor Clayton, you have attempted to control; in two or three instances you have removed registrars and appointed others, and now you tell me you cannot do it?" To which Clayton replied, "Damn it, I do not know but what I did wrong, but the damned rebels there ought not to vote anyhow." Rogers replied, "Governor Clayton, you are not the constitution of the State. It is your business to enforce the law if it dooms every man in the State, and when you assume to be the constitution you assume too much." Rogers called his attention to two hundred sworn certificates of persons debarred the right to register. Clayton replied, "I have not time to correct it now." Rogers says this was about nineteen days before the election. Much more was said, with which I will not encumber my remarks, but which illustrates the manner in which Governor Clayton conducted that registration. Governor Clayton admits the conversation and does not deny the language, but explains by saying that he referred to Ku-Klux outrages existing at the former election, in 1868, and that he said to Rogers that if they were to be repeated he would control the registration to prevent them, or words to that effect. The Senate will be enabled to judge between the two statements when this conversation is given more in detail. Rogers states that Clayton removed Judge Alexander, in Ouchita County, *after registration was complete*, and appointed a man named Thompson *registrar* who *lost the registration-book* and ran away; that he removed Hicks, a registrar in Hempstead County, and appointed Beldin, the uncle or father of D. P. Beldin, senator from Hot Springs County, who was one of Clayton's strongest friends during his senatorial contest.

The second specification is as to how the nominations for members of the legislature were manipulated by Governor Clayton and his friends in his own interest. On this point I will be brief, contenting myself with reference to one transaction by way of illustration. The witness, Judge Story, testifies that he was a candidate for the legislature from Columbia County; that a man named Archer, a supporter of Clayton, came into the county and said, that Governor Clayton did not desire him to go to the legislature, and asked him if he intended to persist in his candidacy; he replied that he did. Archer then produced from his pocket an order or proclamation issued by Governor Clayton and threatened Story that if he did not desist, and allow Clayton's friends to be elected, that the public printing, which Story, a republican, was then doing in the Magnolia Flower, (a gazette of which he was editor,) would

be taken from him and given to another paper. He was then doing the public printing for two counties, Union and Columbia. The public printing was afterward given to the "South Arkansas Journal," printed at Camden, Ouachita County, forty miles off; not more than fifteen copies of which the witness states were taken in his county. This patronage consisted of publication of notices from the probate courts, executors' and administrators' sales, &c., and for the two counties was worth to Story $3,000 per year. This printing was taken away after the delegation from that county reached the legislature and persistently opposed the election of Governor Clayton. The witness asked Governor Clayton why it was done. He gave no reason, but referred to the course the delegation had taken toward him. Several other witnesses besides Story also testify that while the primary meetings were being held for nominations throughout the State, Clayton was going about the State providing for the nomination of men favorable to his election. The witness, J. T. White, testifies that after the nomination was made in his county, Clayton appeared there and insisted upon a renomination, which was carried out, and the ticket elected. The witness who was nominated the first time was retained on the ticket as a friend of Governor Clayton.

The third and fourth specification charges a corrupt agreement with the democrats, and particularly with General John Edwards, democratic candidate for Congress, in pursuance of which the democrats were to support Governor Clayton for the Senate, and Governor Clayton was to aid in the election of Edwards, and to give him the certificate of election. The inception of this transaction occurred in October, 1869, as testified by the witness, A. A. C. Rogers. He says that at a meeting of the most prominent democrats in Little Rock, assembled to consider the political situation of the State, Judge T. M. Bowen appeared with a written proposition from Governor Clayton to form a combination with the democrats for their support. He said he was right from Governor Clayton, who approved it, and that he was there in Clayton's interest. His proposition was that Governor Clayton would *control the election so as to secure a legislature favorable for him for the Senate*, and that Clayton, in consideration of the democratic support, would recommend to the legislature such measures as would relieve the people from the disfranchisements of the constitution; that in the counties where Clayton's friends had the majority, he was to name the candidates; in the counties where the democrats were so greatly in the majority that he could not control them, they were to name the candidates. There was no republican present except Judge Bowen. Bowen said that the witness (Rogers) was to acquiesce in this arrangement. Another meeting was held at Mr. Garland's office that night, and a consultation ensued. Rogers dissented to Clayton's proposition, and withdrew from the meeting. Witness met Governor Clayton the next day at the fair grounds. Clayton referred to the meeting the night before; said that the arrangement proposed was "about the best thing that could be done." Bowen stated distinctly, in answer to an inquiry propounded by A. H. Garland, one of the democrats present, that this proposition and the terms upon which it was made came directly from Governor Clayton. The proposition shows very clearly two things: first, his anxiety to combine with the democrats for his election, and, secondly, that he was perfectly willing to use the executive power in manipulating the election of members of the legislature to the same end. It also reflects much light upon the two charges made against him, that he did conduct the registration for that election unlawfully, and, therefore, corruptly, if to secure his elec-

tion; and that he agreed to issue the certificate of election to Edwards, in consideration of the support of democrats.

As Governor Clayton required that the witness, Rogers, should accede to this proposition, and as he dissented, there is no evidence before the committee that the combination then proposed was ever carried out in that form; that is to say, there is no evidence that the democrats allowed him to name their candidates. But as to whether his purpose was carried out as revealed in that proposition, will be seen when we come to consider his conduct and motives in issuing the certificate to General Edwards.

There are other similar facts disclosed in the evidence, but I will now proceed to collate the facts bearing upon the charge of issuing the certificate of election to General Edwards.

There were two republican conventions held at Fort Smith to nominate candidates for Congress. E. J. Searle was nominated by the other. Judge Thomas Boles was nominated as the regular republican candidate. Edwards states that he ran as an independent candidate—a quasi republican—but supported by the democrats and conservatives. In a short time Searle withdrew, leaving Boles and Edwards to run the race. The majority of this committee, in their report, assume as an uncontroverted fact that Governor Clayton supported Boles, the regular republican; but there is hardly any fact in the whole investigation about which witnesses differed more, as I will now proceed to show, and if the evidence does not establish the fact that Clayton was supporting Edwards, it undoubtedly shows that if supporting Boles, Edwards was the subject of much well-plied coquetry; for Edwards and his friends were certainly under the impression that Edwards had the executive favor. The witness H. L. McConnell swears in terms that Governor Clayton supported Edwards. And just here, as an attempt was made, in consequence of the strength of McConnell's testimony against Clayton on this and other points, to impeach his veracity, and as a majority of the committee, in arriving at their conclusion have entirely ignored his testimony, I will state the reasons why I give credence to his statements. He went to Little Rock in 1869, with a letter of introduction to Governor Clayton, going from Leavenworth, Kansas, where Governor Clayton formerly resided. Being an editor, and evidently a very intelligent man, he was engaged by Governor Clayton as his private secretary. He commenced advocating, in a public gazette, Governor Clayton's election to the Senate, and continued in both capacities until Governor Clayton's election. These facts are not denied by Clayton himself. They were certainly on the most intimate terms. Sustaining those relations to Governor Clayton for two years, he certainly had full opportunity to ascertain during that time whether McConnell was a man of veracity; for let it be borne in mind that his testimony is not discredited by contradiction, but, on the other hand, is corroborated in many points by several witnesses. The attempt to discredit him was made by introducing two or three parties, unknown to the committee, who swear that McConnell's reputation while in Leavenworth, and afterward in Little Rock, for veracity was bad. That he was the holder of the political secrets of Governor Clayton is fully sustained by Clayton's own testimony, for, some time after the senatorial election, and in 1871, two witnesses, Mr. and Mrs. Parish, whose voluntary affidavits were admitted in evidence by consent, swear that Governor Clayton, during McConnell's absence from his room, which was in Parish's dwelling, entered McConnell's room, opened his trunk, ransacked it, and examined a large number of letters therein, and

took away a large bundle of papers. The witness says they were letters which would show Governor Clayton's relations to Edwards. Clayton says they were letters which he had given to McConnell to answer, and which McConnell had not answered. McConnell, who says that he occasionally—two or three times a year—gets on a drunken spree, was at that time drunk and had been absent from his room for a day or two. Their relations were certainly extremely confidential, not only from the testimony of other witnesses but from the admissions of Governor Clayton himself; besides as to several material statements, Governor Clayton corroborates the testimony of McConnell. As, for instance, McConnell testifies that Clayton offered Grady, a member of the legislature, the sheriffalty of his (Crawford) county to vote to impeach Lieutenant-Governor Johnson, and about that Clayton says, he has an indistinct recollection of McConnell's speaking to him about the sheriff's office of the county, but does not remember that he made any promise or pledge.

Again, McConnell says that Clayton told him his election had cost him $20,000. Clayton admits he told him that it cost him a great deal of money, and explains in what way he spent it; and it is most noteworthy in determining the credence to be given to McConnell, that Governor Clayton, while testifying in his own behalf, and being represented by two counsel supposed to be learned in the law, and to understand how to conduct a defense, to wit, John McClure, chief justice of the supreme court of Arkansas, and Thomas M. Bowen, ex-justice of the same bench, (McClure appointed by Clayton, no doubt on account of his judicial learning,) did not in all of his testimony refer, by denial, to any of McConnell's statements, which are numerous and very damaging if true, except the two instances that I have referred to above.

And now to resume the evidence bearing upon Edwards's case.

McConnell, who by editorials and correspondence was advocating Clayton's election, and was on such terms of intimacy with Clayton, publicly and privately opposed Boles and advocated Edwards's election. He produced five letters written to him by Edwards during the campaign, the first dated as early as the 19th of January, 1870, in which he says, "We are bound to sweep the State and *elect Clayton to the Senate;* most of the *democrats will vote for us.* I am glad you are with *us for Clayton.*" The second, dated November 25, 1870, says: "If we can succeed in getting the returns of the legal polls sent up, *I am satisfied* the governor will disregard the bogus returns and *give me the certificate.*" In another letter, written before Clayton's first election, Edwards says: "I have succeeded admirably in squelching out several contests in other counties, urged on by the 'Brindle-tails' in order to *compromise* the contest from Pulaski." * * * *

"If Clayton should count the five townships and give Boles the certificate, a howl would be raised by *conservatives and republicans*, that would let in Brooks and Hodges, (two republican candidates for the legislature, who were contesting for their seats, and opposed to Clayton, one of them, Brooks, a very influential man,) and keep out the others who had publicly pledged to his support." The fourth letter says: "Clayton has the inside track; can be elected, and above all will receive the support of all the conservatives, but if he should fail to give me the certificate, such a howl as will go up you never did hear." In the fifth letter, dated February 12, 1871, and which was written after Clayton's first election, (January, 1871,) and before Edwards got his certificate, (February 20, 1871,) Edwards says: "From the vote ousting the great high priest, Joe, (meaning Joseph Brooks, the senator, who had been turned out of the senate by Clayton's supporters,) I shall

be under *more obligations* to the governor for the certificate than any one else, and I think I can, in turn, render him essential service, as they intend making war on him on his taking his seat." I call attention to the letter dated November 25, 1870, in order to state in this connection that Edwards swears that he went from Fort Smith, his home, to Little Rock within ten or fifteen days after the election, which was held on the 8th of November, to see Governor Clayton about his certificate; that Clayton then and there said that he, Clayton, would be governed in issuing the certificate by the action of the courts and legislature. This statement shows that Clayton already had the returns before him, and knew the result of the returns. Boles swears that he first called on Governor Clayton to see about the certificate, after the expiration of thirty days from the election, which must have been after the 8th of December, and that Clayton then told him that he had not examined the returns because he had not been well; that Clayton said nothing about the result of the election as shown by the returns, but said that Boles *might go to Washington;* he, Clayton, guessed the certificate would be all right.

Boles testifies that he was the regular republican nominee for Congress; that Searle was the nominee of the other faction; that Clayton considered him (Boles) opposed to Clayton's election to the Senate.

Edwards, witness for Clayton, testifies that he was an independent republican candidate; that Clayton favored Boles's election; that *he* (Edwards) *was in favor of Clayton for the Senate.*

The returns, it is admitted on both sides, in the executive office showed that Boles was elected over Edwards by a large majority; but Clayton refused to give the certificate to Boles. The law of Arkansas requiring the governor to issue the certificate is as follows:

"It shall be the duty of the secretary of state, in the presence of the governor, within *thirty days* after the time herein allowed to make returns of elections to the clerks of the county courts, (*i. e.*, five days after the election,) or sooner if all the returns shall have been received, to cast up and arrange the votes from the several counties, or such of them as have made returns for such persons voted for as members of Congress, and the governor *shall immediately thereafter* issue his proclamation declaring the persons having the *highest number of votes* to be duly elected to represent the State in the House of Representatives of the Congress of the United States, and *shall grant a certificate* thereof under the seal of the State *to the person so elected.*" (Statutes of Arkansas, 1868, page 325, section 50.)

Governor Clayton refused to issue his proclamation declaring Boles elected, and never did issue to him the certificate of election. His only excuse for refusing to comply with the law above quoted is that a few days after the election *certified copies* of affidavits, accompanied by a petition purporting to be signed by several candidates for the legislature in Pulaski County, asking him not to count the returns from that county, on account of alleged frauds, were laid before him. These certified copies are signed by Stoddard (brother of Chauncey Stoddard, who bribed Prigmore) and other members of the legislature. When Clayton was on the stand he could not recognize the handwriting of but two of these petitioners, though he knew them all well, and these two are Howard (a democrat) and Chamberlain, (a conservative, who was his political friend and voted for him for Senator.) Why *certified copies* of affidavits were used no witness explains. Why only the signatures of Howard and Chamberlain are proved (and that by Clayton only) to be genuine the committee were not informed. But here comes in an

extraordinary fact which may be, and in my opinion is, the key to the mystery. No one ever saw those affidavits and petition until this investigation commenced, though Clayton says he received them the 17th of November, 1870, so far as the testimony shows, except Clayton and Chamberlain. R. J. T. White, secretary of state, swears he never saw them. Barton, Clayton's private secretary and brother-in-law, and his witness, makes no reference to the existence of these affidavits and the petition. And when Clayton was asked how these papers came to be in his possession now, his significant reply was that when he vacated the executive chair he retained them, "deeming they would probably be of some importance in the future." Boles also swears that in his interview with Clayton, thirty days after the election, (about 8th December,) when Clayton told him to "go on to Washington, he (Clayton) guessed the certificate would be all right," Clayton did not even refer to the existence of these affidavits and this petition.

Another part of this history necessary to be known is this: Chamberlain and Howard were beaten by the returns first made from Pulaski County. The clerk of the county, McDiarmid, had received two sets of poll-lists; had rejected one and certified the other and sent it to the secretary of state. The one certified defeated Edwards and elected Boles—defeated Chamberlain, Howard, Gantt, Mitchell, and others, and elected J. L. Hodges and others.

It was all-important, therefore, in order to justify issuing the certificate to Edwards, that the rejected polls in Pulaski should be counted, and the polls certified to the secretary of state should be rejected. When Edwards called on Governor Clayton, about ten or fifteen days after the election, they and Chamberlain held a conference, and it was then and there agreed that steps should be taken to get the returns excluded by McDiarmid sent up. Chamberlain sued out from the supreme court, then consisting of McClure, Bowen, and Wilshire, (another adherent and appointee of Clayton,) a *mandamus* to this clerk. A case was made, and the court decided that the excluded polls were the legal votes. But still the certificate was not issued, though this decision was rendered two days before the legislature met. The election for Senator was yet to take place, and the support of Edwards and the democrats was to be given. The election occurred on the 11th of January, 1871, and all the democrats except five voted for Clayton. He accepted the position as Senator, and still would not issue the certificate. Two of the candidates for the house in Pulaski County, Gantt and Mitchell, had proposed to Clayton, Edwards, and their friends that they must desist from this contest for seats if Clayton would issue the certificate to Edwards. When Clayton was elected on January 11, as above stated, Gantt (who was authorized by Mitchell to act for him) complained because Edwards was not commissioned. On January 27 Gantt addressed the following letter to the house:

"*To the honorable the house of representatives of the State of Arkansas:*

"I learn from the published proceedings of the house of representatives, in the city papers of this date, that it was announced in your honorable body on yesterday that I had retired from any contest for a seat therein, and that the protest and papers presented on the first day of your session by Hon. L. B. Mitchell and myself to abandon our contest on condition that a certificate of election, as member of Congress, was issued to General John Edwards. I certainly understood this to be fully assented to, and in compliance with that agreement prepared a

formal abandonment of the contest, in writing, to be used only after such certificate should have been issued to General Edwards.

"Believing that General Edwards had been legally elected a member of Congress, and that he could render efficient service in that capacity, but fearing that the issuance of his certificate of election was likely to be delayed, if issued at all, and desiring that it should be issued, we consented to surrender our individual rights in the premises for what we considered to be the public good.

"Hon. L. B. Mitchell and I are able to show, by the most indubitable evidence, that we were legally elected representatives from the tenth district, and respectfully ask that we be afforded an opportunity of doing so; that the papers connected with our contest be re-referred to the committee on elections, and that we may have a fair and impartial hearing.

"R. S. GANTT."

Before the date of Gantt's letter the court had decided that the excluded polls were the legal votes in Pulaski County, which gave Edwards a majority of 50, and the legislature, by joint committee, had decided the same question in the same way. This result, let it be remembered, was all Clayton said he desired to decide to whom he would issue the certificate. Hence Gantt complained, because the agreement had been carried out by him and the other democrats, and Clayton had not issued the certificate to Edwards.

I will now state some facts which furnish an explanation of this delay or refusal. The fact is sworn to by many witnesses on both sides; indeed, it is admitted by Clayton that during the canvass for the election for the legislature and Congressmen, he pledged himself to his political friends that he would not, if elected Senator, accept the position and leave Lieutenant-Governor Johnson in office to become governor. This pledge was on him at his first election in January. He, as is alleged, had a proceeding *quo warranto* instituted against Johnson to turn him out of office, on the *sole* ground that Johnson, who was elected with Clayton in the spring of 1868, and had been in office for over two years, and presiding over the senate by virtue of his office, ***had not taken the oath of office as lieutenant-governor within the time prescribed by law.*** This was more than even the supreme court of Arkansas, constituted, as I have shown it was, could stand. The *quo warranto* failed, and Clayton kept his pledge by resigning the Senatorship.

The democrats and conservatives then became furious. Gantt sent in his letter to the house. Articles of impeachment were preferred against Clayton in the house, and fourteen of the friends of Clayton, to prevent their presentation to the senate, deserted the senate and "took to the brush." The certificate was issued to Edwards, and Gantt and Mitchell gave up the contest for their seats. From this time to the date of Clayton's second election, on the 15th March, 1871, two other means were adopted to secure his election. They constitute the foundation on which the sixth and seventh specifications rest.

I will now proceed with the evidence bearing on the Clayton-Edwards agreement.

Boles testifies that Clayton was unfriendly to his nomination; that during the canvass Clayton asked for his support for the Senate, and he told Clayton that he must stand neutral between him and McDonald.

Edwards, witness for Clayton, as has already been shown by his letters to McConnell, was supporting Clayton. He says in substance, "Clayton, Chamberlain, and I agreed on the investigation which was

to change the result in Pulaski County by which I would get a majority. Chamberlain agreed to take the matter in hand. Chamberlain *may have told me* that he was moving in the investigation *at the instance of* Governor Clayton. Clayton and I agreed on the matter as any two would agree to any proposition. I always saw Clayton privately. Chamberlain told me that he had talked with Clayton and that Clayton desired the investigation to go on—just such an investigation as afterward took place. [Investigation here referred to was the one afterward conducted by a joint committee of both houses, Samuel Mallory, senator, chairman, for the double purpose—first, to furnish a ground for issuing a certificate to Edwards, and secondly to exclude certain candidates from Pulaski and other counties who were opposed to Clayton's election, and who, by the returns then in the executive office, were elected.] Chamberlain always said he desired Clayton's election. I left home, on my way to Washington, about the 23d of February; was informed by letter before leaving home that I would get my certificate. [Certificate was issued the 20th February.] I heard a rumor of this bargain between Clayton and myself before the certificate was issued; denied it privately, but not publicly. Gantt told me that if the investigation (by Mallory committee) was made I would go to Congress, and he and Mitchell would, in that case, withdraw from their contest. The polls which McDiarmid, the clerk of Pulaski County, had excluded were counted by the Mallory committee, and those he returned were rejected; this gave me fifty majority. The Mallory committee reported after Clayton's first election. No one ever approached me on the subject of a bargain further than as to the withdrawal of Gantt and Mitchell. I probably wrote letters urging Clayton's election. My first interview with Governor Clayton, about my certificate, was ten or fifteen days after the election. He said in that interview he would be governed by the action of the courts and the legislature. Democrats and Clayton republicans told me the same thing. Both Clayton and White, secretary of state, told me the election returns were late coming in."

McConnell says, "Governor Clayton supported Edwards in the election. He told me he would issue the certificate to Edwards. Neal, democrat, told me that there were great complaints among the democrats that Clayton had not given the certificate to Edwards. I told Clayton of the complaint; there was at that time a coalition between the democrats and Brindle-tails to unseat Clayton men in the legislature. I told him Whitesides, elected sheriff of Crawford County, had not received his commission, and suggested that he commission Whitesides to conciliate the democrats. Clayton assented, and informed me that he would issue the certificate to Edwards. He said, however, that commissioning Whitesides would raise a howl among the ultra-republicans. I saw Gantt on the morning of Clayton's second election; told him Clayton had fulfilled his pledge by issuing the certificate to Edwards and that he, Gantt, ought to do something for him; Gantt said he would go out and do what he could. Judge Walker, of Washington County, sent word by Edwards to Clayton that if he treated Edwards right Walker would urge his representatives, Owen and Caraloff and others, to vote for him.

"While the impeachment was pending against Clayton, Edwards told me he could not do much to relieve him unless he, Edwards, got his certificate, and asked me to tell Clayton that Edwards says that Clayton had promised to give him the certificate and was only waiting for a report from the Mallory committee; that the report had been made and the decision of the court in the *mandamus* case rendered, and

that he wanted his certificate. I told Clayton, and the certificate was given the same or the next day. The impeachment was on the 16th and the certificate was issued on the 20th of February. I was acting as the medium of communication between Clayton and various parties."

Chamberlain, witness for Clayton, says "Gantt placed the matter of his resignation to assist Edwards in my hands, and said that he represented Mitchell also. By changing the returns from Pulaski County, Edwards would be seated. I proposed this to Edwards, and, with his approval, saw Governor Clayton about it; when the legislature met, a resolution was introduced to raise a committee. Judge Bowen, Tankersley, and Judge Bennett were present when I saw Clayton. Clayton told me to hurry up the *mandamus* case, and to get the other returns from Pulaski County. I was a supporter of Clayton, and opposed Boles. Edwards was urgent for the investigation. *Judge Bowen furnished the names of the committee* to me, and I handed them to Tankersley, the speaker. Tankersley left off C. C. Waters, and put on Mr. Ham, because Waters was dilatory about the matter. Judge Bennett, then circuit judge, went into the house, and urged Waters to act. Soon after Bennett was appointed supreme court judge. Judge Watkins brought a paper to me from Gantt, proposing to decline a contest for his and Mitchell's seats, if Clayton would issue a certificate to Edwards. Bennett took the paper to Clayton, returned, and said Clayton would not *sign* it. Gantt sent in a letter to the house, stating he would claim his seat unless the agreement to issue the certificate to Edwards was carried out. The certificate was issued, and Gantt and Mitchell withdrew. Saw paper from Gantt in Judge Watkins's hands, containing his proposition about Edwards, and stated the fact to Clayton, Bowen, and Bennett. This was not long before the Mallory committee was raised. I supposed Bennett to be one of Clayton's confidential advisers and friends; almost always saw him *in* Clayton's office, and saw him frequently on the floor of the house. The main object of the investigation was to seat Edwards in Congress; this was understood all round. *It was understood by me in advance*, and, I supposed, also *by Bowen;* that the committee of investigation, whose names Bowen gave me to hand to Tankersley, would report *so as to seat Edwards.* Bowen was then supreme judge, and I think Judge Bennett knew all about the committee. Edwards left the matter of the investigation with me, requesting me to do all I could, which I promised to do. I told him he might go home, and *rest perfectly easy; that he would get his certificate.* I told Tankersley that those were the names of men *he was desired* to appoint on the Mallory committee. I think I told him that Bowen sent them.

Battle, democrat, says: "I voted for Clayton on his first election; after the election my friends told me they had pledged me to Clayton, to vote for him before the election; I voted for Clayton to make Johnson governor."

White, secretary of state, says: "Had no evidence of the election in my office, except the returns; the returns in every view showed Boles had a majority; the governor produced no papers on which he relied in issuing the certificate to Edwards; I issued it under his direction. The clerk in my office first informed me that Governor Clayton had decided to issue the certificate to Edwards; I asked him on what ground; if the governor had given any reason. He said none; and I told him to make a written memorandum of the transaction, which was done. There were no affidavits or petition touching the election brought to my notice by Governor Clayton."

W. S. Olivir, witness for Clayton, says: "Clayton advocated the elec-

tion of Boles and the republican ticket for the legislature in Pulaski County; Clayton advocated the election of Brooks and Hodges in that county in all his conversations with me." (We will see directly what measures Clayton advocated to keep them from their seats, when it was known they were opposed to his nomination for Senator.)

Catterson says: "Isaac C. Mills was democratic candidate for sheriff in Pulaski County in 1870; he was supported by Clayton's political friends; was afterward appointed United States marshal for the eastern district of Arkansas, by President Grant, on Clayton's recommendation. Harrington, now United States district attorney for Arkansas, supported and worked for Mills, and was generally understood to have supported Edwards in his contest for his certificate."

Having presented these facts to show the intention of Governor Clayton in issuing the certificate to Edwards, I will now give, very briefly, the action of the Mallory committee, which was raised in the legislature to investigate the elections in Pulaski County, and framed, as Chamberlain's evidence clearly shows, with a view to decide in favor of Edwards. Being a joint committee, they appointed Senator Mallory chairman, and pretended to proceed with the investigation.

Joseph Brooks was contesting for his seat as senator, and held a certificate of election from the county clerk.

J. L. Hodges, Gantt, and Mitchell were contending for their seats, and held certificates. Chamberlain, Goad, and Pilkington were also contending as opposing candidates. The latter were known as Clayton men. General Upham was appointed clerk of the committee. I should say that, by the returns, the Clayton men were defeated, so the investigation had a double purpose—to seat Edwards in Congress, and to seat Chamberlain, Goad, and Pilkington, who favored Clayton's election.

Chamberlain, Clayton's witness, says: "The following-named witnesses, whose testimony appears in the report of the Mallory committee, were never examined by the committee, to wit: J. W. Raybun, Calvin Pemberton, Milo Arbuckle, John W. Mooney, Isham White, Harvey Harrison, and R. R. Carlisle. I took their affidavits myself. I took some in the office of Mr. Fletcher, who was a democrat. General Upham, secretary of the committee, who was a warm friend of Governor Clayton, told me he desired a quiet place to take the testimony of certain witnesses. He said many desired to testify whose testimony he did not want, among them Joseph Brooks and J. L. Hodges. I got the key to the law-office of Faust & Ratcliffe at Upham's request. The office was in a room in the rear of the building, approached by a dark passage in which there was no light. One member of the committee came that night, Mr. Cohn, I think, member of the house, devoted to Clayton, and who was afterward appointed clerk. The committee had met before in Upham's office, across the street from the State-house." (The witness does not say whether any witnesses were examined.)

Hodges says, "I endeavored to get before the Mallory committee to testify, but never could succeed. I was never notified of the time and place to take proof. I went one night by appointment of the committee, but there was no member of it present. Failing in my efforts to get before the committee, I called upon General Upham, the secretary, and proposed that, as I could do no better, that he should take my testimony. After making my statement for some minutes, I discovered he was taking down what I had not said. I charged it upon him, but he would not allow me to make the corrections. The testimony reported by the Mallory committee as mine was not given by me."

Battle says, "Was a member of the joint investigating committee of

which Mallory was chairman. The committee sat a few times, examined *Chamberlain*, *Hartman*, Webster, John Reigler, N. L. Pears, *S. R. Harrington*, Hagan Green, and *Jas. V. Hitch*. [It will be observed that the witnesses whose names are italicized were no doubt very swift. Fitch did the registration that they were investigating. Chamberlain, after advising with Clayton, Bowen, Bennett, and Edwards, got up the investigation at Edwards's and Clayton's request, and furnished the names of the committee to Tankersley, the speaker, and the committee called in those special friends of Clayton, whose names are italicized, to do the swearing.] The witness says Hodges was not examined before the committee. I did not know that the report of the committee was going to be made until it was announced in the house. I did not unite in it, nor approve it. It was made by C. C. Waters, in the house, who was afterward appointed judge of the criminal court in Phillips County. Waters was never present when the committee sat."

Joseph Brooks says, "In an interview held by Governor Clayton, Lieutenant-Governor Johnson, Judge Bowen, J. L. Hodges, and myself, just before Governor Clayton's second election, that Governor Clayton then stated to him that the Mallory committee and its proceedings were projected simply for the purpose of a counter pressure to a fight, which he understood that we were putting up on him in Washington." Brooks told him "that he and Hodges had been wrongfully and outrageously and unlawfully kept out of their seats, through his influence chiefly, through the power of the star-chamber Mallory committee." These statements are corroborated fully by the witness, Hodges, and are not denied by Governor Clayton. To the account of this interview, as given by Brooks, who is a very intelligent man, I especially invite the attention of the Senate.

As the fifth and sixth specifications of charges both relate to the means employed to remove Lieutenant-Governor Johnson from office, and thus remove the last obstacle to Clayton's coming to the Senate, I will treat them both together.

The proceeding by *quo warranto* has already been referred to. It was instituted for no other purpose than to fulfill the pledge which Clayton had given his friends repeatedly, that he would not accept the Senatorship until he had made way with Johnson. When that proceeding failed, his friends holding him to the pledge, he resigned, under the first election. In the mean time much bitterness had been engendered and division taken place among his friends and opponents in the legislature growing out of—first, the indignation of some at his attempt to overthrow Johnson on so frivolous a pretext; secondly, the attempt made by his partisans to impeach Lieutenant-Governor Johnson; third, his resigning the Senatorship, and, fourth, his delay in carrying out the agreement with General Edwards. The impeachment of Johnson, which was another effort made to get rid of him, was based upon a ground as frivolous, if possible, as the ground upon which the *quo warranto* was instituted. The charge against Johnson was, that he was guilty of "high misdemeanors and maladministration," because he swore in Joseph Brooks as a member of the senate on his certificate of election which he presented, after having appealed in vain to Senator O. P. Snyder and Senator O. A. Hadley, zealous partisans of Clayton, to present his certificate to the senate. And just here I will break the thread of my views in order to show how this matter was manipulated by Governor Clayton. Brooks says, "I held a certificate of election as senator; I asked both Snyder and Hadley to present my certificate, and they declined; I was kept out of the senate until after Clayton's first

election; was then sworn in on presenting my certificate; I moved the reference of my credentials to the committee on privileges and elections; the committee reported unanimously that I was entitled to my seat. Eight days after I was admitted I offered several bills; one was to make a disposition of the swamp-lands, estimated at several millions of dollars. There were before the legislature what was called the levee bill, intended to appropriate the same lands for railroads. Just after I introduced the bill Senator Mallory moved a recess; it was taken, and at 2 o'clock p. m., when the senate assembled, Senator Young, from the committee on privileges and elections, made another report to unseat me and to seat my opponent, Riley, a democrat. No evidence had been taken by that committee. I had not received any notice of contest by Riley. The previous question was at once ordered on the resolution to unseat me. I appealed for an opportunity to be heard. I wrote a note to Senator Sarber (a supporter of Clayton) to intervene for me. He said he would *consult with Governor Clayton*, and let me know if I could be heard; he went and returned, saying he had seen Governor Clayton, who was in his office with Judges Bennett, Searle, and Bowen, or McClure, (not certain as to which of the last two named,) and that they were consulting on the subject; that the governor signified he would let him know in a few minutes; that he would go again and *inquire of the governor if they might adjourn* the question over till morning.

"I heard nothing more from Sarber. I then sent a message to Clayton by Joseph Myers, who returned no answer. The question was not adjourned over, and I was ejected from the senate that evening."

The above is a mere abstract of a pitiful story told by a man of great intellect, remarkable intelligence, and quick conscience, who, on account of his opposition to Clayton's election and disapproval of his conduct, was thus ruthlessly crushed without even a hearing. But to resume.

"These two efforts to depose Johnson having failed, another election being necessary, and his friends being resolved not to vote for Clayton until he got Johnson out of office, another plan was devised. Strategy now came into play. A conference was held. Brooks and Hodges were invited to meet Clayton, Bowen, and Johnson. They met, and the following is Brooks's account of the interview. Clayton stated that he was pledged not to resign and leave Johnson to become governor; that some arrangement must be made so that he could carry out his promise, in order that he might go to the Senate. The meeting was called to make an adjustment with Hodges and myself, and our associates on the ticket in Pulaski and White Counties, and with Johnson. He repeated his often expressed desire to be United States Senator; the earnest efforts he had put forth to secure it; that it was more than the dream of his life; that he was very ambitious; his heart was set upon it; that he was as ambitious as Cæsar; that he would not only be United States Senator, but that, if he had the opportunity, he would sway the scepter of universal empire. I answered, he knew full well that we had been opposed to his election; that it was a new development in political tactics that the successful party (himself) had to be conciliated; that though he had secured his election by means we did and could not approve, he should quietly take his seat and we should be permitted to take ours in the general assembly. Bowen seemed equally interested with Governor Clayton, and to represent Clayton's views and feelings. One condition necessary to adjustment, they both said, was that they should expect and require that our friends in the house, not only those who were to be admitted, but other friends of ours who were then mem-

bers of the house, should vote and act on the Hot Springs contest with the Clayton men. (This was a contest for seats in the legislature.)

"One of them said that I would be expected to use my influence with those colored members with whom I was supposed to have some influence, to have them vote against the contestants in the house. I said they were sworn representatives of the people, and under obligations of the most solemn character to vote and act in that and every such matter in conformity with the facts and evidence as they understood them when presented; that if they found, in their unbiassed judgment, that the contestants, agreeably to the testimony, were the members elect, I could not, of course, counsel them to perjure themselves; for myself I claimed to be lawfully elected; stated to the governor I thought he knew I was. If I was lawfully elected then I claimed the seat without conditions and without pledges; that I believed myself to be a republican, not only unquestioned, but unquestionable; that if admitted to my seat, on all political questions I would undoubtedly act and vote with Senator Clayton's friends if they were republicans; with respect to general legislation, I did not regard myself under obligations to Governor Clayton or anybody else, except my constituents. Johnson expressed his wish for an adjustment so that Clayton might go to Washington and take his seat. Clayton and Bowen then suggested that Clayton might retire and let Johnson try his hand as governor. I answered that I thought Clayton's friends were not the men to be consulted with respect to the State administration; that I felt a very great aversion to any such horse-swapping on the subject; that Johnson was as much lieutenant-governor as he was governor; that he had been elected, after the fashion he had been, United States Senator; I thought the law ought to take its course; that we required no conciliation except for Clayton to go on as Senator, let the constitution and laws of the State take their course, and for them to suspend what I designated their star chamber performances through the Mallory committee; that Hodges and I and our associates on the ticket had been denied the right of a hearing there, and that there could be no harmony, or restoration of friendliness of feeling, unless they either gave us a chance to be heard fully and fairly before that committee, or the committee dissolved and their *ex parte* proceedings were cast into oblivion. Clayton replied that he thought, if other matters could be arranged, that there would be no difficulty with respect to that committee; that it was projected simply for the purpose of a counter-pressure to a fight, which he understood we were putting upon him at Washington. I replied no fight had been put up on him, nor was any contemplated; that we and our friends were entirely content that he take his seat unmolested; that while we believed we had been outrageously kept out of our seats, *through his influence chiefly*, that was past. Clayton expressed the opinion that if our delegation (from Pulaski County) had been ad-
mitted at the organization of the general assembly he *would have*
of his election. Finally, late in the night, perhaps
asked me if I would be satisfied with any ad
Clayton and Johnson. I replied I had nothin
justment, and would make no trouble about
the crack of day without any further adjustm

"I understood Governor Clayton's remark
to be to the effect that the Mallory commi
and its proceedings carried forward unde
he stated it, to furnish counter pressure
ours against him in Washington."

The foregoing statement of Brooks

This proposition made by Clayton and Bowen to influence votes to seat members without respect to their rights, and in consideration of such influence to be exerted by Brooks and Hodges, graciously to consent that Brooks and Hodges might take their seats. Not being accepted, still another device was hit upon, and that was to secure his seat by the use of money. O. A. Hadley was then delegated to wait upon R. J. T. White, secretary of state, and after a few blandishments he made the direct proposition to pay him $5,000 in money and $25,000 worth of first mortgage bonds of the Mississippi, Ouichita and Red River Railroad Company to resign his office. It is hardly necessary to say that this masterly stroke was successful. This was just before Clayton's second election. It had been previously arranged that Johnson, who was all along the stumbling block, if White would vacate his office would resign and accept it; O. A. Hadley would be elected president of the senate, become *ex-officio* governor; Clayton would be re-elected and accept the place of senator. Hadley says that White's resignation, Johnson's resignation and appointment to White's place, and Clayton's nomination, all occurred within less than an hour of each other. Why these events occurred in such rapid succession and so *immediately* before Clayton's re-election we will better understand when we come to consider the last charge.

Now as to a few facts bearing upon the purchase of White. *I will let* Mr. White tell his own story, premising by saying, that *it is not only* uncontradicted by any witness, but not even referred *to by Clayton* when on the stand. Referring the senate to his testimony *for the whole* story, I content myself with mentioning the material facts.

O. A. Hadley called to see me. He said it was understood and agreed if I would resign I should not suffer pecuniarily, and *that parties* with whom he had conferred had agreed to see me out, *if I suffered* pecuniarily, and he mentioned the sums which they *supposed I would be a* sufferer. He named a sum, $5,000 and $25,000 in $1,000 first mortgage bonds of the Ouachita and Red River Railroad Company; we separated there. I called on Johnson to know if the *thing* [illegible] was true. He said so, and it seemed to turn out *that* [illegible] I do not think I saw Hadley any more on the *subject* [illegible] called on Governor Clayton. He once passed me and asked [illegible] Hadley had spoken to me on the subject, *and I* [illegible] parted, and there was nothing more said. *I resigned* [illegible] on I met Governor Clayton in New York a short [illegible] he to him on the subject; *the matter was* [illegible] *remark;* and some time afterwards [illegible] a certificate of deposit on [illegible] Hot five $1,000 first mortgage [illegible] River Railroad. The let[illegible] tained nothing but [illegible] stood what [illegible] selves w[illegible] er[illegible]

[illegible]ty, and

[illegible] county, [illegible]s created the office [illegible]ppointed,

[illegible] senators—

therwise insurmountable, in Clayton's path to the Senate was removed. To appreciate the value of this success, we have only to bear in mind that witness after witness who voted for him testifies that unless he had removed Johnson he could not have been elected. *His own party friends would not have supported him*, because they were resolved to do no act that would result in making Johnson governor. So, by removing Johnson, by paying White to resign, and appointing Johnson to his place, he virtually bought the votes of his own friends.

The seventh and last charge is, that Governor Clayton purchased his election by appointments to office of many of the members of the legislature, and by paying them money. It is answered to this charge, so far as relates to the appointments to office, first, that no such agreement was made, and, secondly, that the appointments, which are not denied, were made by Governor Hadley, who succeeded Clayton. Before stating the facts, I will remark that Clayton was elected on the 15th of March and Hadley was installed as governor on the 17th of March. This will explain why most of the appointments were made by Hadley. Clayton was certainly too shrewd to "pay the piper before the dance was over." Hence he made but few appointments before the votes were delivered. Besides, some of these appointments were made to offices created during that session of the legislature, and some of them by acts passed after Clayton's election, though they and the persons to fill them had been agreed upon in caucuses of the Clayton men before his election. From the split which occurred among his friends in the legislature, from the causes which I have already mentioned, and the decided opposition of the "Brindle-tails," or Brooks faction, and most of the democrats, his second election was very doubtful. This is shown by the herculean efforts which he and his friends put forth for some time before the second election. Frequent caucuses were held, conferences at night were numerous, and continued up to a late hour the night before the election. The doubtful issue of the contest is further shown by the vote on the second election.

In the house, first election, (house journal, p. 74:)

Votes cast	7[illegible]
Of which Clayton received	7[illegible]
Necessary to a choice	[illegible]0
Majority	31

In the house, second election, (house journal, p. 715:)

Votes cast	78
Clayton received	42
Necessary to a choice	40
Majority	2

In the senate, first election, (senate journal, p. 44:)

Votes cast	25
Clayton received	23
Necessary to a choice	13
Majority	10

In the senate, second election, (senate journal, p. 272:)

Votes cast	23
Clayton received	15
Necessary to a choice	12
Majority	3

Thus it appears that his first majority (41) was reduced on the second second election to 5.

Let us inquire now whether there were more than five members of that general assembly voting at that last election who received lucrative appointments from Governor Clayton, or from Governor Hadley by agreement with Clayton. We will first take Hadley's own testimony on this point. He says:

"I appointed the following-named members of the legislature to office:

"S. W. Mallory, senator, commissioner of claims and director of the Mississippi and Ouachita Railroad Company.

"John W. Sarber, senator, trustee of the industrial university.

"P. H. Young, senator, to same position.

"Conway Barbour, representative, assessor of Chicot County.

"E. H. Chamberlain, representative, a justice of the peace.

"M. A. Cohn, representative, superintendent of public instruction.

"I. P. Grady, representative, sheriff Crawford County.

"George Haddock, representative, assessor of Clark County.

"W. C. Hazeldine, representative, circuit judge.

"G. H. Joslyn, representative, county and probate judge of Lincoln County.

"Herbert Marr, representative, circuit school superintendent.

"Thomas Orr, representative, assessor of La Fayette County.

"J. A. Robinson, representative, assessor of Desha County.

"C. C. Waters, representative, circuit judge.

"E. R. Wiley, representative, justice of the peace.

"C. W. Tankersley, representative, superintendent of penitentiary.

"A. Hemmingway, senator, was appointed commissioner to locate county-site for Lincoln County.

"G. W. Prigmore, representative, circuit court clerk of Jefferson County, March 17, 1871, the day Hadley was installed. Hadley says he does not remember whether he or Clayton appointed him."

I will next take the testimony of E. A. Fulton:

"D. P. Belden, senator, was appointed justice of the peace in Hot Springs County.

"E. D. Rushing, senator, appointed justice of the peace.

"A. O. Espey, representative, appointed justice of the peace.

"Carl Pope, representative, appointed justice of the peace.

"T. G. T. Steele, representative, circuit court judge.

"J. M. Alexander, representative, justice of the peace.

"James V. Fitch, representative, circuit clerk of Pulaski County, and clerk and recorder of criminal court of same county."

These offices (Fitch's) are regarded as the best paying in that county, and are worth about $10,000 per year. This criminal court was created by the same legislature that elected Clayton. The act creating the office of superintendent of the penitentiary, to which Tankersly was appointed, was also passed at the same legislature.

We have here the names of nineteen representatives and six senators—

twenty-five members of that legislature in all—who were appointed to lucrative offices, and all of whom are recorded in the journals of the house and senate as voting for Senator Clayton in his second election. Of the fifty-seven men who elected him, nearly *one-half* were appointed to office. The very pregnant question arises just here, How did this come about? Was it by design or by accident? Hadley appointed most of them, but why? What interest had he in rewarding men from whom he had received no favors, so far as the testimony shows? But we are not left entirely to conjecture in solving this question. There is much positive testimony which shows that many of these votes were obtained by contract. Hadley admits that he appointed some of them at the suggestion of Clayton. Some of these appointments were *arranged in caucus before* Clayton's election. And just here I will remark that, while Clayton says he never attended a single caucus during the session of the legislature, his own witness, W. S. Oliver, says that Clayton was generally present at *all the caucuses*. He attended them himself, and saw Clayton there. Chamberlain, also his witness, says he attended a caucus of republicans when Clayton and Bowen were present. The levee bills, the penitentiary bill, and certain railroad bills were agreed upon in caucus; so was Clayton's nomination.

Scales, a democrat, who voted for Clayton on the second election, says that in an interview he had with Governor Clayton, before his election, and in talking on that subject, Clayton told him, if he would name good men to fill the office of magistrate in his county, he would appoint them. Hadley was present, and said he would agree to whatever Clayton said he would do. That was in the event Hadley became governor. This was after Johnson was appointed secretary of state, and before the election of Clayton. Had a conversation on the same day with Isaac C. Mills, who was supporting Clayton. I think I told him I had assurances from Clayton and Hadley that these appointments would be made; told him I would support Clayton, and told Mills of my conversation with Clayton. I voted for Clayton, and *considered when I voted for him* that these vacant offices in my county *would be filled*. I gave the names of some seven or eight democrats and republicans to Hadley and he appointed them. *Clayton appointed some* before he resigned. Hadley did not appoint some I recommended, and that is the only complaint I made against him. Neal, a democratic member of the house, voted for the articles of impeachment against Clayton. When the resolution was passed, fourteen senators, as before stated, to break the quorum of the senate, and thus to prevent action on the articles of impeachment, "took to the brush," (using the language of the witness,) and were gone a week, remaining during that time at the dwellings of W. S. Oliver and Judge Bowen, and visited while there by Clayton. Meanwhile Neal had evidently been manipulated, for the committee managing the impeachment in the house was changed and Neal appointed by Tankersly, the speaker of the house, chairman of that committee. The committee on the second or third day after Neal was appointed, without taking any evidence to support the articles of impeachment, except to examine some records in Clayton's office, reported back to the house that they could find no evidence on which to sustain the charges. Neal had two measures of much importance to him pending before the legislature. He wanted two courts established and desired Clayton's influence to pass the bill. The bill was afterward passed. Neal did not vote for Clayton, and gives the reason why he did not vote at all, that the election came off at 11 o'clock instead of 12 o'clock in the day. The house journal shows, page 715, that

the election was held in accordance with the provisions of the act of Congress, which designates 12 meridian as the hour.

McLane swears that he was in the house when the election was going on, and that he saw Neal during the roll-call get up and leave the chamber. Neal was also interested in a railroad for which he wanted State aid, which could only be granted by the board of commissioners, of which Clayton was one of three members.

The negro, White, senator, was also a competitor of Clayton's in the election, and was instructed by his constituents to vote for himself. He did so, but before the announcement of the result of the ballot, he rose and said, "I change my vote to Powell Clayton."

McConnell says that Clayton and Bowen called at his room at a late hour the night before the election and stated that they had just seen White (this senator) and another member of the legislature named Mason, and had fixed the matter with them, but that they were very expensive.

McLane swears that White told him he was visited after 12 o'clock the night before the last election of Clayton, by Clayton and Hadley; that they staid with him an hour or two and fixed the matter up.

Fulton swears that White boasted that he had got $25,000 worth of stock in a railroad while he was senator.

Another witness testifies that White was charged at a public meeting where he was present with having received $25,000 in bonds for his vote, and did not make any denial.

McConnell testifies that Clayton told him to say to Steele, (senator,) who was considered doubtful, that he (Clayton) would appoint him judge of the circuit court, if he would vote for Clayton for Senator. Steele voted for Clayton and was appointed judge of that court, *vice* Searle, resigned.

Chamberlain, (projector, with Clayton and Edwards, of the "star-chamber committee,") and Clayton's witness, says: "Clayton asked me to vote for him on his second election; said if I would he would make out for me a *commission as justice of the peace right then.* I voted for Clayton, and got my commission afterward from Hadley." He states, however, that he did not vote in consideration of the commission. *Per contra,* let it be remembered that between the first and second senatorial elections Chamberlain had broken out the traces. The impeachment of Johnson to depose him, and thus fulfill Clayton's pledge, no man can doubt, was Clayton's own work. Here Chamberlain broke. He opposed that assault and voted against it. Hence the necessity for his recapture. McConnell says that Chamberlain told him Clayton had not treated him right, and if Clayton expected his support he must pay for it.

McConnell says Clayton told him just before his second election that Johnson was going to be impeached, and he felt sure of success, and asked witness to assist. Witness saw J. P. Grady, representative, and reported to Clayton that he thought Grady was "bullheaded," meaning stubborn. Clayton said, "Tell Grady he can have the sheriff's office, or anything reasonable;" that he *must have his vote.* Mr. Grady voted against the previous question when it was ordered on the motion to impeach Johnson, (House Journal, 231.) But he afterward voted for Clayton at his second election, and received *the appointment of sheriff.* The same witness says that Clayton told him, in the presence of Mills, district attorney, that Scales's (democrat) vote could be got by giving him the patronage of his county.

To show that these appointments were all agreed upon before the sen-

atorial election, I will state that McLane testifies he was informed before the election by Tankersly that he (Tankersly) would be appointed superintendent of the penitentiary; by Sarber, that Mallory would be appointed commissioner, and that Neal would get his railroad aid and county bills, and that Waters would be appointed judge of the criminal court.

Thus it will be seen that five members of the legislature, to wit, Scales, a democrat; Chamberlain, a conservative, who ran on the ticket in Pulaski county, which was supported by the democrats; Steele, who was considered doubtful as to his vote; Grady, who had refused to vote for Clayton's measure impeaching Johnson, and White, a rival candidate for the United States Senate, are shown by direct testimony to have given their votes for Clayton, as Senator, at the election under which he now holds his seat, under promise of a valuable consideration, which they afterward received, while the opposition of Neal, a democrat, was overcome by some magic influence, supposed to be a grant of State aid to his road by Governor Clayton. Clayton's majority on that election was five; the men whose names are given above, excluding Neal, were five in number, and all voted for Clayton.

There is another very important fact, to which I now call attention. It is, that even the majority he received would have been overcome had the delegation from the Hot Springs district and Pulaski and White Counties been allowed to take their seats. They were undoubtedly excluded by the iron hand of Clayton, and to prevent their opposition to his election. He had but one purpose, as shown by the evidence, to accomplish through the aid of that body, and that was to come to the Senate. Everything was subsidized and subordinated to that end.

McConnell says that Clayton told him (when he took Haymaker to see Clayton about his, H.'s, levee bill) that there were four levee bills before the legislature; that they were good to use for political purposes; that he would keep out of the fight for awhile, and then favor the bill best *suited for political purposes.*

Various witnesses testify that many of Clayton's friends and supporters, in the legislature and outside of it, were interested in these bills and several railroad bills. Neal was interested in a railroad; so was Sarber; so was Judge Bowen. Judge Bennett was interested to the extent of a fee of $70,000. And all these were looking to the governor for State aid and his influence.

By the returns in the secretary's office the delegation from Pulaski and White, opposed to Clayton, were elected. But White, the secretary, sent in the roll of members-elect with the names of Clayton's supporters from those two counties upon it. Among those opposed to him and left off the roll were Hodges and Brooks. We have seen that Brooks told Clayton in that remarkable interview that he knew that Brooks and Hodges were opposed to his election, and that he told him further he knew the delegation from Hot Springs district, three in number, were also opposed to him, and that he (Clayton) had originated the Mallory or star-chamber committee, for the express purpose of keeping these opposition candidates out of the legislature; that Clayton did not deny the charge that he raised the committee, but simply stated it was raised to countervail their opposition to his getting his seat at Washington. We further know the proposition that Clayton then made, that *he would consent* to admit those two delegations in order to remove all obstacles to his election. That he prevented their being seated to secure his election is shown by the following facts: The Hot Springs delegation, after

being kept out of their seats through the report of the Mallory committee from the 2d day of January until after Clayton's election on the 15th of March, were finally received into the house. Brooks, of the Pulaski delegation, the most powerful opponent, intellectually and morally, that Clayton had, was kept out until after the first election, was after the election declared by the committee unanimously to be entitled to his seat, was, without notice or hearing before the second election, on the report of the committee on privileges and elections, ejected from the senate, and Riley, his democratic opponent, seated, while Hodges and the other candidates for the house from the Pulaski district were never permitted to take their seats. The complexion of the delegation from Pulaski and White, who were seated, is somewhat motley, not to say significant. They were C. A. Whittemore, a democrat; Robert A. Howard, democrat; E. H. Chamberlain, democrat or conservative; J. W. House, democrat; and Pilkington and Goad, republicans. The seats of Goad and Pilkington were contested by Gantt and Mitchell, democrats, who, it will be remembered, withdrew to insure the certificate of election to Edwards. Goad and Pilkington voted for Clayton.

There are many other facts which illustrate this contest for power and place, but having already extended this review further than I expected, I will refer to but few more.

At the organization of the legislature an armed force took possession of the State-house, and no one was allowed to enter the house or senate except those who held certificates of election. Tankersley entered, as several witnesses say, almost on a run, and took his seat in the speaker's chair before he was nominated. The two houses were organized on the roll furnished by the secretary of state, who, it will be remembered, excluded from the list of members-elect some who, by the returns in his office, had a majority, but who were opposed to Clayton's election. When the articles of impeachment were about to be presented against Clayton, or had been preferred, his attached friends, members of the legislature and some outside, formed a military company for the purpose of offering resistance. Clayton ordered arms from the arsenal at Little Rock, sufficient to arm from one hundred to one hundred and fifty men, and these arms were placed in the executive office ready for use. Even his own witnesses testify that Johnson, who was then considered the head of the opposition, was a very peaceable man, and that they saw no demonstrations of force on the part of either Johnson or any of his friends. One witness, Brooks, says that this armed power had a very discouraging influence on the members who had been appointed to conduct the impeachment. Clayton and his friends, as a pretext for this, threatened bloodshed, saying that they feared Johnson and his friends would endeavor to depose the governor from office in advance of a compliance with the laws of the State, but no witness testifies to any act which showed such an intention.

However much we may differ on the demurrer to these facts, on a calm survey of this whole testimony there is one conclusion as to which, I think, all men will agree. It is that Senator Clayton is responsible for all the acts of that legislature, through its committees and otherwise, which were done to promote his election. He was the doer of many of them, and all the others were done by those who either stood in the most intimate personal relations to him, and were in almost daily conference with him, or others who were bending every energy to accomplish his one purpose. Bowen was the omnipresent and ever present, his mentor and monitor, his man Friday, his very shadow. Hadley

was his creature, was made governor by him, and obeyed his mandates to the letter, as shown by the appointments Hadley made. Storey said that when he applied to have the public printing restored to him, Hadley answered that he could not do so until he consulted Senator Clayton, then in Washington.

Judge Bennett, appointed by Clayton circuit judge a month after his admission to the bar, for his zeal and labor in this contest was promoted during that legislature to the supreme bench by the same benefactor. He, of course, was subservient. Judge McClure, the recipient of a like favor, was alike devoted. Judge Searle, who withdrew in the congressional race, received like honors. Tankersley, whom one witness calls Clayton's candidate for speaker, devoted to the end, was rewarded by being assigned, through mistake, to a place *over* the penitentiary. And so with many others. Who can doubt that their acts and sayings were Clayton's own, so far as they related to his election? Who can doubt, not only from these circumstances, but from the positive evidence in this case, that the five votes of Scales, Chamberlain, White, Grady, and Steele were procured directly by Governor Clayton for a valuable consideration? Who can doubt that he is directly responsible for the exclusion of those members, ten in number, whose votes were pledged against him, and who, if admitted, would have defeated his election?

Is not the conclusion irresistible that the appointment of those members of the legislature to office by Hadley was the act of Clayton himself? And, going one step further, who does not believe, considering the history of this transaction and the extraordinary fact that nearly one-half of the members who voted for Clayton were, during the session of that legislature and soon after his election, appointed, some to the most honorable and some to the most lucrative offices within the executive patronage, that these appointments were the price of their votes?

Recurring now to the transaction with R. J. T. White, is there any room left for doubt that White sold out and that Clayton bought him? Hadley made the arrangement, Clayton recognized it, by a simple word or wink from White, and then Clayton paid the price in the *very amount of money* and of bonds, and the very *class* of bonds, (first-mortgage Ouachita and Red River Railroad,) which Hadley told White would be paid. And Clayton, by the use of this money, secured the votes of his own party friends, three or four of whom, on this investigation, have sworn they would not have voted for him unless he had removed Johnson. Johnson was removed by removing White. If this be true, then it is clear that Clayton obtained his election solely through the power of money. If he had removed Johnson by the *quo warranto* on the judgment of a competent court, there would have been nothing corrupt in it; or if the impeachment had resulted in deposing him, after a fair trial, it might have been considered very sharp but not corrupt practice. But when these failed, and he had no other means left by which to obtain a seat in the United States Senate, except the power and influence of gold, used and applied as it was, I cannot regard that means as other than corrupt. The circumstances of the bargain show that he and White were of the same opinion. Clayton's emissary approached White at a late hour of night after White had gone to bed—made the proposition. The interview was "short, sharp, and decisive." White said he would consider. When he and Clayton met on the street, Clayton referred to the subject and passed on. When they met in New York after the election, White renewed the subject with a single remark; Clayton signified his obligation, and when Clayton inclosed the money and bonds, instead of send-

ing his own draft (which would have an ear-mark) he sent a certificate, reading that *Jackson E. Sickles* had deposited to White's credit in a New York bank $5,000.

Taking a retrospective glance over the field of this contest, brought on by ambition, made fierce by party strife, and ending in shame, what a sad spectacle do we behold! Clayton's plan of battle was laid while his enemies slept, and long before the day of action. Through executive power he commanded the situation, held it, and won, but with irreparable loss. We see executive power cruelly brought to bear on Storey, party ties subrogated, friend and foe falling without discrimination. We see legislators obeying his beck, and crushing Brooks and others at his nod. We see the representatives of the people seated and unseated at his pleasure. And all these to put him in the Senate! We see registrars appointed and protected by him when charged with fraud. We see overtures to his enemies to join hands and wage war on his friends. We see friends and foes, democrats and republicans, following his banner, each confident he was their leader, and each, like the irate knights, seeing a different color on either side the shield. We see an inoffensive citizen, honored by his people with the next highest State office in their gift, (and given simultaneously with the highest which they conferred on Clayton,) assailed without cause, by *quo warranto*, to gratify ambition. We see a plain law—so plain that he who runs may read—violated, and a certificate of election issued, under a bargain made for his own promotion, to one not entitled to it. We afterward see this democratic favorite ejected from his seat in Congress, obtained on that certificate, and his opponent, a republican, seated by a rebuking majority vote. To furnish an apology for this act, we see him raise a packed committee to investigate alleged frauds, and "to report in favor of Edwards." We see the certificate of election withheld for more than two months after it should have been issued, and more than one month after the report of that committee. This ambition still foiled, we see it turn again on Johnson with ferocity increased by disappointment, and attack not only Johnson's position but his honor. Here we see the mercenaries of this leader of two opposing parties discover the reverse side of his banner and desert. A few of their opponents desert and join them and turn upon their former leader. To escape defeat he withdraws his adherents to the headquarters of his first-lieutenant, Bowen, where they are quartered for six days. Strategy meantime is active. One of the opposing leaders, Neal, is captured—joins the enemy—carries a few followers, and the combined forces return, and Neal reports against impeachment. Still ambition is not sated. Still foiled by its foe, Johnson, it curbs passion, abandons the open field, and, encouraged by its success with Neal again resorts to strategy. An armistice ensues, and Johnson is invited to a council. We there see this ambition tender gold to White and office to Johnson, and its hitherto unconquerable foe surrenders. Though the opposing chief surrendered his followers did not, and victory was not assured. The stragglers, who had sworn they would not advance under Clayton against the opposing forces until their commander, Johnson, had been either killed or captured, hearing of his capture returned to the ranks. This ambition, still fearing a field engagement, tried again the skill of strategy. Gold and promotion to office were tendered to a few of the enemy; they grounded their arms, joined Clayton, and thus re-enforced he conquered.

Is it not clear, on a full review of all these facts, that money, or its equivalent, alone gave Clayton his majority of *five!* Taking the buying of White, by which Johnson was overcome; the votes of the republicans opposed to his election if Johnson remained lieutenant-governor,

(three or four of whom testify here that they would not have voted for him except on that condition, and who further swear they did vote for him,) and counting those with whom he bargained to give them lucrative offices for their votes, it is demonstrable by figures that he got more than five votes (his majority) by these two means.

The only remaining question, granting the facts, is, what is the law? On this head I shall be brief. I consider it unnecessary to cite precedents or quote authorities; for the single question is, was using money and lucrative offices in that way fraudulent and corrupt? If so, they make the election void, and the Senate may declare the seat vacant. If, in the judgment of the Senate, such conduct was not corrupt and fraudulent, there is no case made out. This I understand to be the generally accepted rule of law in such cases.

I know there are some who go to the extreme of holding that the Senate has no jurisdiction over a Senator for any offense he may have committed prior to the moment of his election, even though the act was bribery in securing his election. And it is founded on the doctrine of State rights. To my mind, this rule is not only unsound but repugnant to State rights. For I can conceive of few higher rights the people of a State, who are the sovereign power of that State, have, than to be represented by a Senator who is chosen in conformity to law. The legislators are but the agents of the people. They cannot exceed their delegated power. A part of their delegated power is to elect Senators for their principal, the people—the sovereign. An inseparable incident of that power thus delegated is that it shall be exercised fairly and honestly. The law will never imply that even a private agent is authorized to act fraudulently in transacting the business of his principal. His agency ceases the instant he commits the fraud, and he makes himself individually responsible for the act. He not only cannot act fraudulently, and bind thereby his principal, but he cannot bind his principal by a lawful act done *extra* the scope of his agency. This being true of a private agent, the rule is even more rigid as to public agents, for reasons I need not stop to enumerate. A legislature is a public agent. And while a court cannot inquire whether a statute was passed by a bribed majority, the people—the principal—to be bound by the statute may. For instance, if a charter for a private corporation should be obtained by a bribed majority, the people, through their legislature, may annul the contract by repealing the charter.

To apply this rule to the election of a Senator. He represents the State. He is in no sense the representative of the legislature. He is elected by the legislature as an agent delegated for that purpose. The agent must act strictly within the limits of his delegated power. Fraud lies outside of that power. And when a candidate bribes a sufficient number of the electors to secure his election, he and they knowingly commit a fraud on the people, and by every rule of law any act done through combination of an agent with a third party to defraud the principal is void. And a man thus elected (to use a solicism) was never elected. The election is void and the seat vacant. And when the fact is judicially ascertained by the Senate, it is only necessary to declare by resolution the seat vacant. I say further, that in such case it is the imperative duty of the Senate so to do, and for the reason that no other power can. The legislature of his State cannot. The people in sovereign character cannot. For the Senate alone, under the Constitution, can judge of the *election* and qualifications of its members. If the election is void, there has been no election and the State is *pro tanto* unrepresented in the Senate. She is entitled to two members in this body, and it would be the duty of the Senate to say one seat was vacant, that

the State might fill it. Hence, in my opinion, the power of the Senate to judge of the *election* of its members necessarily includes the right to go behind the moment and form of an election in order that it may determine whether that election was procured by bribery.

Again, the Senate is expressly clothed with power, by the Constitution, to judge of the elections, returns, and qualifications of its members. The "qualifications" of a Senator are prescribed in the Constitution. The "returns" spoken of are the formal evidence of his election. But the power to judge is not confined to "qualifications" and "returns." It extends to the election itself, and *in terms* is unlimited. Is it without limit, or, in other words, may an election be declared void for any cause for which a majority of the Senate in their discretion may see fit to avoid it? Certainly not. It is not a question of discretion, but of parliamentary and constitutional law. A cause which, according to parliamentary law, consistent with the Constitution, avoids an election, is a sufficient cause. But according to parliamentary law, both in England and the United States, an election may be avoided for bribery. The provision in the Constitution is a transcript of the parliamentary law of the English House of Commons, as it existed when, and long before, the Constitution was adopted. And it is to be observed that the same clause that makes the Senate the judge of the election of a Senator, makes the House the judge of the elections of its members. The clause is as follows:

"SEC. V. ART.—.—Each House shall be the judge of the elections, returns, and qualifications of its own members."

The power of the two houses is, therefore, the same, and no one has ever doubted that the election of a Representative may be set aside for bribery.

I see no reason for a distinction between the electors who choose a member of the House and those who choose a Senator. The members of a legislature, in choosing a Senator, act as a body of electors, just as the people act as a body of electors in choosing a Representative. Either class may be bribed, and the reasons for holding that bribery avoids the election in the one case apply with equal force to the other.

And hence, I say, that this right, so far from infringing on State rights, is necessary to their protection. In the case supposed, the State would be defrauded by the election of a corrupt man to the Senate without the power to vacate his seat. For with two members of the Senate admitted as her representatives, and one in a seat obtained by bribing her agent, she could not elect a third to take his place without action by the Senate, declaring his seat vacant.

My conclusion on the specifications, which, as before stated, I resolve into three distinct charges, is:

First, that while the evidence satisfies me that a combination did exist between Clayton and Edwards, by which, for the support of democrats, Clayton agreed to issue the certificate to Edwards, and did accordingly so issue it; yet, that not having obtained his seat by the election held on the 11th of January, at which he received these democratic votes, the act is one not cognizable by the Senate.

Second. That the charge made of procuring his seat by the corrupt use of money in the transaction with White is sustained by the evidence.

And, third, that he obtained five other votes, which make his majority, and were necessary to his election, by giving to those electors as a consideration for their votes lucrative offices; and that this was as corrupt as if, for the same purpose, he had paid them money in kind.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 513.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 26, 1873.—Ordered to be printed.

Mr. MACHEN submitted the following

REPORT:

[To accompany bill S. 1240.]

About the 28th of May, 1862, General N. P. Banks, in command of a portion of the Army of the United States, retired from Charlestown, in Jefferson County, Virginia, to Harper's Ferry. On the same day, after his troops had moved out of said town, a brigade, accompanied by cavalry, returned, and during their march through the town the market-house building was set on fire by the cavalry soldiers and entirely destroyed, together with all its contents. The building had been erected for various purposes, and was three stories high. The first, or ground story, was used as a market-house; the second as a printing-office, and the third as an Odd-Fellows hall. Said hall was built by the organization of Odd-Fellows known as "Wildy Lodge," and is shown by various witnesses to have been worth, or rather to have cost, to lodge, about $2,300, and the furniture, regalia, &c., of the order, with the value of the building, about $3,547.50; all of which was destroyed by the fire as before stated. The building had been used by the Army for various purposes, and quartermaster's and commissary stores were in it at the time it was fired. There does not seem to have been any necessity for the destruction, nor does there appear to have been any proper authority for firing the building, but it was done under the apprehension that the rebel forces would enter the town and benefit by the quartermaster's stores. The soldiers firing the building would not allow the citizens to approach the building—threatening to kill any person that undertook to put out the fire, until Captain David H. Strother, of General Banks's staff, interfered, and then all that could be done was to prevent the fire from spreading to other buildings and destroying the town. Captain Strother states that he learned then the building was fired by soldiers of Captain Cole's Maryland Cavalry company, under command of Major Deems, and that there was neither authority nor reasonable justification for so doing. The trustees of the Wildy Lodge are proven to have been loyal to the United States, and good, quiet, orderly citizens. The valuation of the property is proved to be very moderate, and the destruction to have been unnecessary, and even prejudicial to the United States Army, but was accomplished by United States troops organized as cavalry at the time and not as marauders. The case was referred to the War Department, but payment declined upon the ground that it could not be done except by special act of Congress. The committee, upon

the facts above shown, have arrived at the conclusion that the trustees of said lodge ought to be indemnified for the destruction of their building, but are not willing to go further; and therefore recommend the passage of the bill with an amendment, striking out $3,547.50 and inserting $2,300 in lieu thereof.

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 514.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1873.—Ordered to be printed.

Mr. MACHEN submitted the following

REPORT:

[To accompany bill H. R. 3511.]

The Committee on Claims, to whom was referred the bill (H. R. 3511) for the relief of James Coats, of Jackson, Mississippi, have examined the same, and beg leave to make the following report:

The facts in this case are these:

On the 23d day of March, 1871, the claimant, Mr. Coats, entered into an agreement with Michael Shaughnessy, United States marshal for the southern district of Mississippi, to repair and fit up the city-hall at Jackson, Mississippi, or so much of it as was occupied by the Government for United States district court-room and offices. The work was to be done according to plans of one Joseph Willis, State architect, and for the stated sum of $2,535. During the progress of the repairs the carpeting was taken up and was found so full of vermin as to be unfit for further use. Some extra painting and work upon the doors and windows were found to be necessary. These, together with some other small items of repairing, were found to be unprovided for in the contract. The next term of court was near at hand, and it was imperative that the work should be done immediately. Mr. Coats undertook to furnish the carpets and make the extra repairs upon his own responsibility, but with the full approval of the marshal and of District Judge Hill, and believing that upon proper representation being made to the Department at Washington he would be compensated.

The marshal and the judge both concur that the work was necessary to be done at that time; that it was well done; and that the charges were reasonable, and recommend the payment of the claim.

The claimant brings in a bill in items amounting in all to $986.76, which, it is alleged, was for repairs and furnishing outside of the contract and of the plans of the State architect.

The evidence upon this point is not very full, but your committee are reasonably satisfied that such was the case. They are of opinion that, although the claimant acted without proper authority from the Department, still he made the repairs under the pressure brought to bear upon

him by the United States officers, and in view of the near approach of the term of court, and in perfect good faith, and that, as the Government is now in full possession and enjoyment of the repairs and furniture, it owes it to its own credit, as well as to the demand of the claimant, to make him proper compensation.

Your committee recommend that the bill do pass.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 515.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1873.—Ordered to be printed.

REPORT OF THE COMMITTEE ON NAVAL AFFAIRS OF THE HOUSE OF REPRESENTATIVES.

[To accompany bill H. R. 3853.]

The Committee, to whom was referred the memorial of William Wheeler Hubbell, beg leave to make the following report:

The petitioner, William Wheeler Hubbell, claims the sum of $133,333.33 due to him by the United States, as an adjudicated debt, for his inventions and patents. Claim is made for the patent for the invention of the Navy fuse for explosive shells, with which the entire Navy is supplied, to give explosive effect to the shells of spherical form, for the large smooth-bored shell-guns. Patent dated January 7, 1862, for seventeen years. The claim is also for the patent for the percussion-apparatus or fuse for the elongated rifle-shells, used in the Navy and military service, to develop the explosive effect of the shells of rifle-cannon. Patent dated January 24, 1860, for fourteen years. Of the Navy fuses, including those for the smooth spherical shells on the forts, about one million two hundred and ninety-five thousand have been used, and of the percussion-apparatus about eight hundred and thirty-one thousand five hundred have been used by the United States. The petitioner is a native citizen of Pennsylvania, and commenced his experiments on these inventions in A. D. 1840. He built floating targets, provided guns, shells, fuses, ammunition, and men, at his own expense; and although encountering he overcame all difficulties, and brought his experiments and inventions to perfection in 1846 and 1847, and kept them secret under an application for a patent, by which means the United States had the exclusive use of them in the late war of the rebellion. These experiments were at his own private expense, and, through a period of now thirty-two years, he testifies that these inventions have directly and indirectly been made to cost him about $152,000, and with average interest on his expenses $216,000.

The claim was referred to the Court of Claims by a joint resolution of Congress approved June 3, 1864, in which special issues were framed for reference, as follows:

First. Is William Wheeler Hubbell the original inventor of the shell and fuse, and percussion device aforesaid, or either of them, and has he a just and equitable right to compensation for the same; and—

Second. What amount of compensation is he entitled to receive for the use of his inventions and patents, as claimed, up to the time of adjudication, and for a full and entire transfer of his patents to the United States.

The court, in answering these questions framed by Congress, as to the two patents on which this claim is presented, specifically state—

2. We further find that Hubbell was the first and original inventor of the time and impact fuse, as claimed by him in his patent of January 7, 1862. And that such fuse

has been largely and extensively used by the United States in violation of his rights as patentee. And that he is justly and equitably entitled to compensation therefor, under the joint resolution of Congress before recited.

3. We further find that Hubbell, the claimant, is the first and original inventor of the percussion-fuse, as claimed in his patent of January 24, 1860. It is proved that these fuses have been used in great numbers by the United States, in derogation of claimant's rights secured by his patents.

That these inventions have been and are of great importance to the Government is apparent. Several millions of these fuses were used during the war of the rebellion.

Their importance has been greatly augmented by the introduction of rifled cannon, and especially the impact or percussion fuses, by the use of which, in conical shells, their destructiveness is greatly enhanced by securing certain explosion after complete penetration of, or while imbedded in, the object at which it is fired.

The fact that Hubbell is the original inventor of the fuse and percussion device, answers the question of whether he has a just and equitable right to compensation for the same. This just and equitable right to be paid for the use of his invention by the United States must be determined by those principles and considerations which obtain in ordinary cases for the use of inventions or infringement of patents. Were they private persons or parties who had used these fuses in the same manner, would he have a claim to damages for that use? Would a bill in equity be sustained against them to enjoin the further unauthorized use of the inventions, with an account for past use? Had he abandoned his inventions; had he in any way dedicated them to public use; or had he, by anything done or omitted on his part, debarred or precluded himself from a recovery for such infringement or use? So far as this record shows, all these questions must be answered in favor of the claimant. The fact being conceded or determined that he is the original inventor, and the use undisputed, his right in every respect to compensation is complete and perfect, and nothing has been shown from which we can infer that he had relinquished or released that right, that he has donated its use to the United States, or in anywise abandoned his invention.

The only remaining question is the amount of that compensation. Were this an action for infringement, or a bill to restrain its use with an account of profits, the rule and measure of damages are well settled.

The actual loss sustained by the patentee is to be measured by the actual profits or benefits received by the infringer. And where this cannot be ascertained with exact and absolute certainty, it is, as in other cases, to be arrived at as nearly and approximately as the nature of the case will permit.

The resolution embraced a third patent for a shell, on which the court found against the claimant. The resolution also allowed the court to authorize to be paid to him out of the Treasury $100,000, which was a proposed compromise sum named by him in 1862 for the Navy fuse patent, and the shell if paid at that time, and a resolution in 1862 was reported and remained on the calendar intended to comply with this proposition. In 1864, when another resolution was reported and passed, his percussion-apparatus patent was added to determine his title and its value or damage to him, under the first and second issues of reference framed by Congess. It had come into extensive use in the mean time in the elongated shells of the rifled cannon, and gave them wonderful effective power in every battle. No change, however, was made in the wording of the limitation of the resolution as to the $100,000 proposal for his Navy fuse patent. And the court strictly construed this limitation, as authorizing it to pay out of the court fund only $66,666.66⅔, and says:

This limitation embraces the three patents as claimed. That for the shell having failed, we are limited to a proportional amount for the other two inventions. Or, in other words, we have no power to award any sum beyond the two-thirds of one hundred thousand dollars. The actual value of a reasonable royalty on the fuses used by the United States since the date of the claimant's patent would, according to the opinion of professional and expert witnesses, measured by the usual rule, be much greater. Estimated upon that basis and upon the proofs, the actual loss to the claimant and the real gain to the defendants would be little, if at all, short of *two hundred thousand dollars*. But we are precluded from using this measure of damage for any other purpose than to ascertain the extent of his just and equitable right to compensation, within the rule and amount prescribed for us by Congress.

It took seven years to prepare and try the case in the Court of Claims, and the Supreme Court afterward denied the motion and dismissed the

appeal of the United States. The proofs in the cause show that the petitioner, in due form of law, proved a royalty due to him of 50 cents on each Navy fuse, and of 25 cents on each percussion-apparatus, amounting in all to $855,128.75, and declared in his petition, as in equity practice, at $882,500, and for an account. A re-assessment of the damage, therefore, would show a much greater sum against the United States, and that the sum of $200,000, stated by the court as his actual loss and damage, at a reasonable estimate on the proofs, is really reducing the sum to the lowest possible amount.

Prudence on the part of Congress during the war, and the immense and rapid increase of the use of these patents against the enemies of the United States, no doubt influenced Congress to first determine, by a general reference, the amount justly due to this inventor; not to avoid the just debt when ascertained, but to promptly and cheerfully pay it. The unpaid balance of this debt is $133,333.33, and the petitioner has signified his full and entire willingness to execute the necessary transfers to vest the entire control of these two patents, and of three others comprising additions to the system for use in maritime warfare. It is scarcely necessary, in view of this general statement, to add, that these inventions gave effect to the shells on the Alabama by which she was sunk, and they exhibited their superiority against every vessel, port, and body of troops in which they have been employed; and the entire Navy and military service of the United States use these patents, the one for the spherical shells of its smooth-bore guns, and the other patent for the elongated shells of its rifle-cannon. That virtually the petitioner has not been paid anything for his valuable percussion-apparatus patent of January 24, 1860, and the amount of his actual loss and damage on this patent is established at fully $100,000, and that he has not been paid, by the sum of $33,333.33, the amount that he fully established in the trial, and limited in his proposal of 1862, as to the patent of January 7, 1862, for the Navy shell fuse, making together the sum of $133,333.33 unpaid balance of his loss and damage stated in the adjudication, and which he now claims in settlement for these patents. Your committee therefore recommend the passage of the accompanying bill, for the payment to said Hubbell of the sum of $133,333.33.

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42D CONGRESS, 3d Session. | SENATE. | REPORT No. 516.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2555.]

The Committee on Pensions, to whom was referred the bill (H. R. 2555) granting a pension to Robert S. Dumont, respectfully submit the following report:

The committee find, from the evidence in this case, that said Robert S. Dumont, in December, 1861, was appointed secretary to Admiral Charles H. Bell, commanding United States naval forces in the Pacific Ocean, and joined the flag-ship Lancaster January 1, 1862, and continued in that position until February 11, 1864, when he was discharged by reason of disability, upon report of examining board of medical surgeons; that, while secretary to said admiral, he performed duties in drilling and training the men on ship-board not properly belonging to his position, being at his own request detailed for that service; and during his connection with said ship contracted chronic diarrhea, for which disability he was sent home and discharged; that said disability has since continued and become permanent, rendering him unable to perform manual labor. He applied in 1870 for a pension, and obtained one of eight dollars per month, there being, prior to the navy regulations established April 18, 1865, subsequent to his discharge, no relative rank of his position, as Admiral's secretary, with line-officers of the Navy. The committee are of opinion that the position held by said Dumont, being important to the service, as well as the other duties performed by him, and his total disability resulting from that service, entitle him to a larger pension than he now receives, and recommend the passage of the bill with amendment.

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42D CONGRESS, 3d Session. | SENATE. | REPORT No. 517.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 3831.]

Mark Collins enlisted as a private in Company B, Fifty-fourth Regiment Pennsylvania Volunteers, September 17, 1861, and was honorably discharged September 16, 1864, having served three years. He returned home with a bad cough and in feeble health, unable to work, and grew worse until his death, July 21, 1866. His widow now applies for a pension.

It is clearly shown that he was a strong, healthy man when he enlisted, and that he returned from the Army broken down, and died of consumption. Hon. A. H. Coffroth, formerly a member of Congress, certifies that he knows the facts and that the case is a meritorious one.

The committee think that the presumption is, and should be, that a soldier, examined and accepted by the surgeon of the United States Army, was in good health at the time, and when he dies afterward in the service, or shortly after discharge, being sick when discharged, that it was of a disease contracted in the service. At least, the burden should be upon the Government to prove that he was not a healthy man when its surgeon certified that he was. A pension is recommended.

42D CONGRESS, 3d Session. | SENATE. | REPORT No. 518.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1873.—Ordered to be printed.

Mr. MORRILL, of Maine, submitted the following

REPORT:

[To accompany bill S. 1233.]

The Committee on Military Affairs, to whom was referred Senate bill 1233, *"to prevent an appropriation therein mentioned from lapsing because of delay in the adjustment," have had the same under consideration, and report:*

That, apparently, the object of the bill is simply to enforce an existing award of the Department of War, made in pursuance of an act of Congress, and to prevent an appropriation for the payment of said award from lapsing in consequence of delay in its adjustment.

The effect of the measure is far more comprehensive in its consequences upon the legislation of Congress, the courts, and the action of the Executive Departments.

By the first clause the Secretary of War is "authorized and required to carry out the award of the Department made in pursuance of a resolution of Congress, approved June 1, 1860," which resolution was, by joint resolution March 2, 1861, declared rescinded, and all proceedings under it pronounced null and void; which award, moreover, was, in October, 1863, declared to be null and void by the Court of Claims, the claimants having appealed to that court for its enforcement.

By the second clause, an act dated April 12, 1848, by which the Second Auditor of the Treasury was authorized and required "to examine and adjust these claims," and providing that the amount so allowed "be paid out of any money in the Treasury not otherwise appropriated," and under which said Auditor did examine and adjust said claims, and the several amounts allowed were paid, "is hereby re-enacted and made available, any law, resolution, rule or regulation of any Executive Department in conflict therewith to the contrary notwithstanding."

Thus it will be seen that Congress, in 1873, is invited to enforce what is inaptly termed an "award" of the Secretary of War, made by force of a resolution, both of which have been declared null and void by a former Congress and by the Court of Claims, these facts standing upon the records of Congress and court respectively; and to re-enact "the original act" which has been fully executed in the Department of the Treasury, and to make it available to this end.

Upon this showing, Congress would probably hesitate to give its sanction to a proposition so novel, not to say covert, and yet so conclusive in its methods of reaching results, unless it could be made to appear that justice was unattainable by more direct and comprehensible means.

This claim has a history which, it is believed, renders it noticeable in the claims legislation of Congress, and, it is to be hoped, altogether exceptional.

It is supposed to have had its origin in Indian depredations and spoliations of United States troops in Florida at a period as remote as 1813. The first account of it as a claim upon the Government of the United States known to the committee was upon its advent in Congress in 1832, by a petition of that date. It received no substantial recognition from Congress until 1848, when a bill was passed referring the claim to the Second Auditor of the Treasury for examination and adjustment.

The value of the property supposed to have been destroyed by the Indians and troops was adjudged in 1848 by the Second Auditor of the Treasury at $17,946, one-half of which sum he charged to the Government as the value of property destroyed by United States troops.

On this amount, thus adjudged, there had been paid out of the Treasury of the United States, prior to 1860, the sum of $66,803.33. To this sum it is now proposed to add the amount of the "award," $66,519.85, making $133,323.18; to which sum, upon the principles of legislation that attach to this claim, there will need, *a fortiori*, to be added at least $40,000 more in interest upon the last-named sum for delay in payment; or, in all, $173,323.18, a sum greater than the original claim as adjudged in the Treasury Department by $164,450.18; a net result so anomalous and exorbitant as to confound all legislative sense.

It remains to be stated upon what principles, policy, and "adjudications" sums so disproportioned to the original claim have been taken from the public Treasury and these additional claims are made.

By the act of April 12, 1848, the Second Auditor of the Treasury was required to "examine and adjust the claims of the legal representatives of George Fisher, deceased." Under this act the Auditor adjusted the claims by allowing $8,973 as a just equivalent for the property destroyed by the United States troops, with interest thereon from February, 1832, when the claimants' petition was first presented to Congress, $9,062.73, making $18,035.73, which was paid December 30, 1848. Subsequently the Auditor allowed interest on the $8,973, awarded as damages, from 1813, (when the destruction occurred,) to 1832, (when the petition was presented,) $10,504.87, making $28,540.60; thus allowing $19,567.60 for interest and $8,973 for damages.

By the resolution of June 3, 1858, the duties which had been imposed upon the Auditor were devolved upon the Secretary of War. In October, 1858, he allowed for the property destroyed $18,104, (being $158 more than the estimated value of the Auditor,) and charged the Government for all the property destroyed. He also allowed interest from the date of the destruction of the property to the date of the adjustment, October 2, 1858, $48,799.33, making a total of $66,903.33.

By the resolution of June 1, 1860, the Secretary of War was required to revise his execution of the act of 1858, and restate and settle the account as justice to the claimants, in his opinion, should require.

Under this resolution, Mr. Floyd, then Secretary of War, allowed the further sum of $66,519.85.

In arriving at this conclusion, he states an account of the legal representatives of Fisher against the United States, in which he finds that he had largely underrated the value of the property in his estimate of 1858, and also finds large accessions to the property destroyed, and reports $34,952 as the true value, against $18,104, his former estimate. On this amount interest is recast from—

1813–'14	$98,371 18
Which, with the principal	34,952 00
Made a total of	133,323 18
Deducting for former payments	66,803 33
Leaves a balance of	66,519 85

as the award of 1860.

Certain principal facts are noticeable in the progress of this claim; namely, the computation of interest, the allowance against the Government for the damage done to property both by the Indians and the troops of the United States, and the growth of the original claim with the lapse of time.

First, as to the allowance of interest. In no one of the acts providing for the relief of Fisher is the allowance of interest authorized. The uniform rule is that when the law is thus silent, interest is not allowable. As a general proposition the Government pays no interest. The fact that the act of 1848 authorized the Auditor to "adjust the claim on principles of justice and equity," gave him no authority to allow interest.

It seems that the Auditor at first allowed interest from 1832, the date of the presentation of the claim to Congress, and afterward, upon an opinion of the Attorney-General, allowed interest from 1813, the date of the destruction of the property.

This opinion is as follows:

ATTORNEY-GENERAL'S OFFICE, *February* 16, 1849.

SIR: In administering the relief provided by the act of Congress for the legal representatives of George Fisher, deceased, approved April 12, 1848, it being held by the Second Auditor that the value of the property taken or destroyed, with interest upon it, is to be paid as "a fair and full indemnity," it would seem to follow, of course, that the interest should be computed from the time when the property was taken or destroyed by the troops of the United States.

As to the rate of interest, it is not fixed by any contract, nor is interest to be paid in pursuance of any contract. It is to be referred to as a measure of what is deemed, under the laws and practice of this Government, a fair indemnity for the detention of the value, and that is 6 per cent. per annum during the period of the detention.

I have the honor to be, very respectfully, sir, your obedient servant,

I. TOUCEY,
Attorney-General.

Hon. ROBERT J. WALKER,
Secretary of the Treasury.

It will be seen by a glance at the opinion of the Attorney-General that he omits to deal with the question of interest as resulting from the authority of law or the policy of the Government as to the payment of interest. The question submitted to him was, whether interest was payable from the date of the destruction of the property, or from the presentation of the petition to Congress, and he says: "It being held by the Second Auditor that the value of the property taken or destroyed, with interest upon it, is to be paid as '*a fair and full indemnity*,' *it would seem to follow*, of course, that the interest should be computed from the time when the property was taken or destroyed by the troops of the United States."

Thus, it will be observed, he makes the authority to recompute interest to depend upon the *fact* that the Auditor had allowed interest for a portion of the time as an amount to be paid as a "fair and full indemnity," &c. If it was to depend upon that fact, "it would seem to follow," from the determination of the Auditor, that interest from the date of the petition was, in his judgment, "fair and full indemnity." But

we are not left to inference; for the case shows that the Auditor refused to allow interest from the date of the loss. Moreover, the language of the act, relied upon by the Attorney-General as the authority of the Auditor to allow interest, relates altogether to the performance of another duty and the exercise of other authority. The "power to examine and adjust the claim" is given by the first section of the act, and the language relied upon does not appear therein, but is contained in the second section, which authorizes the said accounting-officer to *apportion* the losses caused by the United States troops and the Indians respectively, in such manner, &c., "so as to afford a fair and full indemnity," &c. Nothing can be clearer than that the opinion of the Attorney-General was founded upon a misapplication of the provisions of the act, and nothing clearer than that the Auditor transcended his authority under the act in allowing interest at all, as an incident of the claim.

Upon this erroneous action of the Second Auditor, and not less erroneous opinion of the Attorney-General, many times the amount of the original claim has been taken from the Treasury, against the settled policy of the Government and without due provision of law, and a still larger sum is demanded.

The act of 1848, providing for the adjustment of the claim, recognizes the fact that the destruction of the property had been effected by both troops and Indians. Fisher, in presenting his petition, has presented a claim for *all* the property destroyed. That petition was the basis of the act of 1848. By its terms the Auditor was to take notice of the fact as to such destruction of the property, by both troops and Indians, and to apportion the losses accordingly, allowing only for that caused by the troops.

The proofs introduced in support of the claim show that the loss was caused by the Indians as well as by the troops, and fully justify the apportionment by the Auditor of one-half the loss to the United States.

Hayden, the kinsman and overseer of Fisher, in his affidavit taken in 1831, accompanying the petition, states:

> I had the care of Fisher's property. We were compelled to fly to Fort Stephens, between thirty and forty miles. *The Indians there in the settlement destroyed everything they could;* after which the troops who were ordered in pursuit of said Indians, who were commanded by Colonels Carson and Russell, and a number of militia, took and made use of some of the crops and stock which was not taken by the hostile Indians.

To this affidavit he annexes a schedule of the property, and adds:

> The schedule here annexed is a true and correct one as near as I could make.

The Auditor adopts this schedule as the basis of his adjustment, and upon this schedule and testimony allowed Fisher one-half of the estimated value of the property destroyed.

No additional claim or proof upon this point appears to have been filed at any subsequent stage of the proceedings; and yet the Secretary of War, in his subsequent review of the doings of the Auditor, charged the troops with the destruction of the whole amount of property destroyed, and places the value of the property at $18,104, being only $158 greater than the estimated value of the Auditor.

The growth of the claim with each fresh opportunity is noticeable. By the resolution of 1858, the duty of revising the claim under the act of 1848 was devolved upon the Secretary of War, and Mr. Floyd determined that all the property lost had been destroyed by the United States troops, and awarded accordingly.

In 1860, the same Mr. Floyd, upon a further review of the subject-matter, finds (upon what proof does not appear, and against the sworn

schedule of the overseer of the property, the finding of the Second Auditor, and his own former finding) that the true value of the property lost was $34,952.

The items of the claim, as seen by Mr. Floyd in 1858, had largely increased as seen by him in 1860. Then the 100 acres of corn, on Bassett's Creek, valued at $3,000, had increased in value to $6,000; the 400 head of cattle, valued at $4,000, had increased to 550 head, valued at $5,500; 350 stock hogs, valued then at $3 each, and amounting to $1,050, are, in 1860, rated at $5 each and charged at $1,750.

Seventy-five fat hogs, at $14 each—$1,050—had increased to 86 in number, making an item of $1,204. In place of 4 dozen wine and 125 gallons of whisky, we now have 8 barrels of whisky, $350; 1 barrel of rum, $70; and 2 barrels of brandy, $280.

By this method of computation Mr. Floyd was able to state the orignal loss of property at $34,952, and assumed that the whole of it was destroyed by the United States troops, against the positive testimony of Hayden, the overseer, "that the hostile Indians destroyed all they could, and that the troops took and made use of some of the crops and stock"—relying, it may be presumed, upon the well-known repugnance of the Indians for whisky for their exculpation.

He then computes interest upon the same plan, allowing—

For interest on the losses from 1813-'14 to November, 1860, the date of the award	$98,371 18
To which add principal	34,952 00
Making a total of	133,323 18
Deduct for former payments	66,803 33
Amount "awarded" by Secretary Floyd	66,519 85

This proceeding, in the bill referred to our committee, is denominated an "award," and we are told, in the statement of the case by Mr. Floyd, is the result of a desire to execute truly the legislative will. The committee do not care to characterize the transaction. The same proposition was before the Committee on Indian Affairs in 1870, and we quote the following from a report of that committee made by the late Senator Davis:

On those payments upon this claim at the Treasury Department, $8,773, April 22, 1848; $8,797.94, December 31, 1848; $10,004.89, May 12, 1849; $22,881.28, October 12, 1858; and $16,346.22, November 6, 1858, compute interest on cash from the time of payment to the date to which interest was calculated upon the value of Fisher's property used and destroyed, and the principal and interest make an aggregate of $82,973.36, which exceeds the aggregate amount of the value of the property used and destroyed, and interest upon that value from the time of its use and destruction, by $21,091.31; but, compute interest upon the value of the property from February 13, 1813, when the petition was filed, and the claim is overpaid by $40,096; interest upon it from November 6, 1858, makes the sum of $68,162.20, which Fisher's representatives now owe the United States. Congress has, in the most liberal spirit and good faith, passed many special acts to have the just claims of Colonel Fisher against the United States for his property used and destroyed by the Army fully satisfied; but when his representatives, after receiving payments upon it amounting to the enormous sum of $66,903.33, after the second and inexplicable decision of Secretary Floyd, by which he awarded to them the further sum of $66,519.85, only $383.48 less than the aggregate amount they had received, were importunately pressing at the Treasury the payment of this flagitious award, the patience of Congress became exhausted, and by joint resolution of March 2, 1861, it repealed the resolution of June 1, 1860, authorizing the Secretary of War to revise his first settlement. But these voracious claimants were not satisfied. On the passage of the rescinding resolution, they filed their petition in the

Court of Claims, setting up the second award of Secretary Floyd, claiming that it adjuged to them the further sum of $66,519.85, and that their right to that sum was finally and conclusively established by his decision, and asking the judgment of the court against the United States for that amount. Upon hearing the case the prayer of the petitioners was denied and their petition dismissed by the court. But these unappeasable claimants were still not satisfied; being repulsed from the court, they again returned upon Congress, and up to this time have continued their assaults vigorously upon it.

* * * * * * *

It cannot be reasonably doubted that when the joint resolution authorizing and directing Secretary Floyd to revise his execution of the act of 1858 passed they knew that this whole claim had been fully paid upon the most liberal principles of equity and justice; that their position, that there was a balance due upon it, was a false pretense, and that Congress was procured to pass that resolution by false and fraudulent representations. The award of Secretary Floyd under it is also false and fraudulent, and utterly null and void.

The committee report that the bill ought not to pass.

2D CONGRESS, 3d Session. } SENATE. { REPORT No. 519.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1873.—Ordered to be printed.

- MORRILL, of Maine, from the select committee on evidence affecting certain members of the Senate, submitted the following

REPORT:

e special committee appointed in pursuance of the following proceedings and resolution of the Senate:

IN THE SENATE OF THE UNITED STATES,
February 4, 1873.

The Presiding Officer (Mr. Anthony in the chair) laid before the Senate the following ssage, this day received from the House of Representatives:

IN THE HOUSE OF REPRESENTATIVES,
February 4, 1873.

Mr. Poland, from the select investigating committee, &c., submitted the following; ich was agreed to:

Whereas the evidence taken by a select committee of this House, appointed Decem- r 2, 1872, for the purpose of examining into charges of bribery of members of this use, contains matter affecting members of the Senate: Therefore,

Resolved, That the Clerk of the House be directed to transmit to the Senate a copy of the evidence thus far reported to the House by said committee, together with a copy this resolution.

Attest:

EDWARD McPHERSON, *Clerk.*

Whereupon,

On motion by Mr. Patterson and by unanimous consent,

Resolved, That a select committee, consisting of five Senators, be appointed by the esiding Officer, to whom shall be referred the communication this day received from e House of Representatives in relation to matter affecting members of the Senate, gether with the copy of the evidence accompanying the same; and that the said com- ttee have power to send for persons and papers and to employ a clerk.

FEBRUARY 5, 1873.

The Presiding Officer appointed Mr. Morrill, of Maine; Mr. Scott, Mr. Wright, Mr. ockton, and Mr. Stevenson the committee under the foregoing resolution.

Attest:

GEO. C. GORHAM,
Secretary.
By W. J. McDONALD,
Chief Clerk.

eport:

That they have regarded the duty devolved upon them by the order f the Senate, limited in its range to such matters affecting the mem- ers of the Senate as are contained in the communication from the ouse of Representatives, and have accordingly confined their inquiries the elucidation of the testimony accompanying the communication.

Having examined the testimony taken before the House of Represent- tives, heard the statements of the parties in relation thereto, and ken such testimony as was accessible, tending to throw light upon the

subject-matter, and having attentively considered the same, the Committee in the first instance present the facts, as ascertained, touching each member of the Senate.

In the list of members of the Senate supposed to be affected by the evidence taken by the committee of the House of Representatives is the name of

MR. JOHN A. LOGAN.

In December, 1867, Mr. Logan made an arrangement with Mr. Ames to purchase ten shares of the stock commonly known as the stock of the Credit Mobilier of America, upon the recommendation of Mr. Ames that the stock was valuable. No payment was made in consideration of the agreement, at any time, and no stock was ever delivered. In June following Mr. Ames stated to Mr. Logan an account in which he credited him with two dividends arising on the stock subsequent to its purchase, of 80 and 60 per cent., respectively, from which he deducted $1,000, the price of stock, and gave Mr. Logan a check on the Sergeant-at-Arms of the House for the balance, $329, which check was paid.

On the 10th of July following, having become doubtful whether it was good stock, or whether there would not be difficulty about it, Mr. Logan paid to Mr. Ames the amount of money received on the checks, with interest thereon, stating to him that he had concluded not to take the stock, to which Mr. Ames assented, and here the transaction ended, Mr. Logan having no further interest in it. Mr. Logan and Mr. Ames were members of the House of Representatives at the date of the transaction.

MR. CONKLING.

In the record from the House of Representatives is the name of Mr. Roscoe Conkling, a member of the Senate.

Mr. Conkling does not appear to have been connected in any way with the stock of the Credit Mobilier, or of the Union Pacific Railroad Company, and consequently is supposed to be in no way affected thereby.

MR. HENRY WILSON.

On or about December, 1867, Senator Wilson, on behalf of his wife at the instance of Mr. Ames, and upon the advice of friends, contracted for twenty shares of the Credit Mobilier stock, paying therefor in cash $2,000, which belonged to his wife, Mr. Ames giving a receipt for the same and a guarantee for the payment of 10 per cent. interest thereon.

Mr. Wilson became dissatisfied with the transaction from what he had learned of differences in the managements of the Credit Mobilier and Union Pacific Companies, concluded to regard the transaction as incomplete, so stated to Mr. Ames, who consented to so regard it, and an adjustment was, thereupon, made by which Mr. Ames paid back the $2,000 to Mr. Wilson, Mr. Wilson paying back to Ames all dividends upon the stock, and paying Mrs. Wilson $814, the amount she would have received as dividends accruing upon the stock.

The money paid to Ames was Mrs. Wilson's. It was by contract by her husband, and Mr. Wilson had no right or interest therein, except such as grew out of these facts.

MR. JAMES HARLAN.

It appears that Thomas C. Durant, of New York, vice-president of the Union Pacific Railroad Company, had taken an interest in the sen-

torial election of 1866, in the State of Iowa; between whom and Mr. Harlan there had been a long personal intercourse, and who had a large personal interest in the State of Iowa, and professed to believe that Harlan understood the interests of the State, and had been long enough at Washington to know how to care for those interests, had, in the year 1865, given to Mr. Harlan $10,000 for the purpose of securing Mr. Harlan's election to the Senate of the United States.

Mr. Durant did not know how the money was applied, nor does it appear that he gave any directions as to its application, but seemed to expect that it was to be, in part at least, used to secure the influence of some newspapers in that State.

Mr. Harlan states that he received the money for election purposes in 1865, and that it was so used; that it was intended to cover expenses which his friends had incurred in the State canvass of that year, and also their expenses at the legislature; that the contribution of Dr. Durant was voluntary, and not solicited by him, was not in consideration of any service performed or to be performed personally, or officially, or otherwise; that its reception and use had no reference to the donor's connection with any public or private enterprise, and that it was used in paying the expenses of the canvass at the fall election of the members of the legislature, and for expenses of friends coming to, staying at, and returning from the capital of Iowa, at the election of Senator.

MR. PATTERSON.

The transaction between Mr. Patterson and Oakes Ames discloses these principal facts, viz: that on the 31st of August, 1867, Patterson purchased of Mr. Ames 30 shares of Credit Mobilier stock, paying therefor, at that date, $3,000, which stock was subsequently delivered by Ames to Morton, Bliss & Co., of New York, (the business correspondents of Mr. Patterson,) upon the 12th of May, 1871, and on that date Morton, Bliss & Co. mailed a letter addressed to Senator Patterson, informing him of such deposit; that Ames had retained the possession of the stock, receiving the dividends payable thereon, and paying them over to Mr. Patterson as they were declared, in February and June following, until said 6th May, when, on a final settlement between the parties, the balance of the dividends was adjusted, and in pursuance of which the stock was placed in the hands of Morton, Bliss & Co.

On two occasions, subsequently, and prior to 1871, Mr. Patterson purchased of Mr. Ames Union Pacific Railroad stock and bonds, investing therein in all the sum of $4,000, which stock and bonds were placed in the hands of Morton, Bliss & Co., and were by them sold on Mr. Patterson's account.

The market-value of Credit Mobilier stock in August, 1867, was at par, and rose in the next six or eight months to the value of $200 or $225 per share.

On this stock were paid in dividends on February 14, 1868, $2,328; on the 23d of June following, $1,800; on the 6th of May, 1871, $757.24, and one hundred shares of Union Pacific stock and $2,000 income-bonds of that road.

It is not deemed important for the consideration of matters submitted to the committee to remark at length upon the character of the Credit Mobilier of America and its relations to the Union Pacific Railroad Company.

The Credit Mobilier was incorporated by the legislature of Pennsylvania in 1859, and known as the "Fiscal Agency of Pennsylvania," the

purpose of which was the purchase and sale of railroad bonds and securities, and to make advances of money and of credit to railroad and other improvement companies, &c. In March, 1864, its name was changed by the legislature to "The Credit Mobilier of America," and it was empowered to engage in the construction of railroads, &c., passed under the control of persons in the interest of the Union Pacific Railroad Company, and was to be used in connection therewith as a construction agent. The Union Pacific Railroad Company was incorporated by Congress prior to 1864, was largely endowed with grants of land and money subsidies, was subject to its control, and might be affected by its legislation.

In 1865 Mr. Oakes Ames became interested in the Union Pacific Railroad Company and also in the Credit Mobilier, and connected with the construction of the Union Pacific road. The shareholders of the Credit Mobilier were generally shareholders in the Union Pacific Railroad Company.

The capital stock of the Credit Mobilier was $2,500,000, to which, in 1867, it was voted to add fifty per cent., which was to be offered to its stockholders with a bonus of an equal amount of first-mortgage bonds of the Union Pacific Railroad Company.

In August, 1867, Ames contracted with the Union Pacific Railroad Company to build 677 miles of its road for the sum of forty-seven million dollars. This contract was to be, and was by agreement with parties before entered into, assigned to trustees for execution, it being agreed that the profits arising thereon should be divided with the stockholders of the Credit Mobilier. The contract price for building the road was deemed most liberal, from which large profits were expected, and the stock of the Credit Mobilier was supposed to possess a corresponding value.

Mr. Ames was, in December, 1867, a large shareholder in the Credit Mobilier, the stock of which he does not appear to have been anxious to dispose of, but was disposed, and was active to enter into arrangements with members of Congress for stock which he expected to supply from shares of the stock of the company, which were in the hands of Thomas C. Durant, the vice-president of the Union Pacific Railroad Company, and a shareholder in the Credit Mobilier, in trust, for uses not declared; and three hundred and forty-three shares of this stock were subsequently delivered to Ames, as trustee, to enable him to perform these engagements, Mr. Ames paying to the company the par value of the stock at that time. The estimated value of Credit Mobilier stock in December, 1867, was at least double its par value, and the dividends subsequently paid thereon would justify a much higher value. This stock was understood to have been contracted for with members at par, Mr. Ames, in most cases, carrying the shares.

There can be little doubt of the motives of Mr. Ames in this disposition of the stock. It was his diplomacy "to gain friends in Congress," and "getting men to look after their own property," and so to fortify the interest which he was solicitous to protect against the contingency of unfriendly legislation already menacing. It was not desirable that such purposes should be disclosed, and a statement to the parties addressed of the value of the stock, or the expected returns in dividends, would be disclosure. They were accordingly left to look to other sources and future events to disclose the significance of the transaction on his part.

It will appear by a glance at the evidence taken before the committee of the House of Representatives, that Senator Conkling is in no

manner affected thereby. On the contrary, the testimony negatives the idea that he was at any time the owner of, or in any way interested in, the stock, or otherwise connected with the Credit Mobilier, or with the Union Pacific Railroad Company; and this is still further confirmed by his statement before the committee.

Senator Logan was not a member of this body at the date of the transaction referred to in the communication from the House of Representatives. While Mr. Ames may have designed to influence the subsequent action of Mr. Logan, as a Representative in Congress, there is no proof that Mr. Logan had any knowledge of such a purpose.

On the contrary, it appears that as soon as he discovered that difficulty was likely to arise in the transactions of the Credit Mobilier, and but a few days after he had received said dividends, he promptly returned them to Mr. Ames with interest.

The testimony does not affect him in any sense which would call for the action of the Senate, if it possesses jurisdiction over acts happening before his election to the Senate; a question on which, under the finding of the committee, it is unnecessary to express an opinion.

The transaction stated in relation to Senator Wilson in the evidence referred to this committee discloses an investment by him, on behalf of his wife, of two thousand dollars in Credit Mobilier stock, at the instance of Oakes Ames, and by the advice of friends. Whether the transaction is or is not in law to be regarded as that of his own or that of his wife, is not deemed material. It is certain that the money invested was contributed by friends to his wife, that he treated it as belonging to her, considered the investment for her benefit, received no personal advantage or benefit from it, and the money was finally repaid to and disposed of by her.

Mr. Wilson does not appear to have been well informed as to the character of the Credit Mobilier, nor does it appear that he was aware, or had reason to suspect, that Ames had any object in commending the investment other than that of friendship.

The committee do not believe that Senator Wilson is affected by the transaction with Ames. But they feel constrained to advert, in this connection, to the fact that on the 15th of September last, Mr. Wilson authorized to be sent to the public press of New York a dispatch which, in effect, is regarded as an unqualified denial that he had ever obtained, from Oakes Ames or any other person, the slightest interest in the Credit Mobilier, and to remark that the dispatch was calculated to convey to the public an erroneous impression.

The evidence relating to Senator Harlan shows a transaction in 1865, while he was Secretary of the Interior Department. The transaction was not in its nature continuous, and it does not appear to have influenced his action as a Senator since his election [or that it was intended]; and, however strongly the committee would deprecate the use of money for purposes for which in this case it was contributed and used, and with whatever judgment they would visit any and all attempts by the free use of money to control the popular expression, they do not perceive that the conduct of Senator Harlan is affected by the testimony. The committee cannot, however, refrain to remark upon the fact that Mr. Durant, then the vice-president of the Union Pacific Railroad Company—a corporate creation of Congress, which would probably be again the subject of legislation—contributed $10,000 with the avowed purpose of its being used in securing the election of Mr. Harlan to the Senate of the United States, he being at the time of its receipt the Secretary of the Interior.

This discloses an evil upon which the committee cannot too severely animadvert. The use of large sums of money to influence either popular or legislative elections strikes directly at the fundamental principle of a republican government. It excludes merit from public place and undermines the public and private virtue upon which alone republican institutions can stand. It cannot be concealed that it is one of the threatening dangers to the permanence of our Government, and one which calls for that popular rebuke which can come only, and should come speedily, from the united voice of the virtuous citizens of the Republic, uttered at every stage of governmental action, from the lowest to the highest.

While this receipt and use of money is open to this censure, the evidence adduced to prove that Senator Harlan's action as a Senator was influenced by the gift thus made to him failed to establish any such result.

Mr. Patterson, at the conclusion of his statement of the transaction between himself and Mr. Ames, before this committee, on the 14th instant, makes the following summary:

"1. I hand Mr. Ames $3,000 to invest for me. He takes my money and purchases thirty shares in the Credit Mobilier, but never transfers to me the stock, or even mentions it. He does not ask authority to hold it in trust, but holds it without my knowing he has even bought it.

"2. He comes to me some months later, and says, 'I have sold your bonds,' and pays me some money, for which I receipt, without giving any heed to the character of the receipt written by him. This he repeats. From all this is left on my mind the impression that he had purchased for me securities in the road, and not an interest in the Credit Mobilier.

"3. At Pittsburgh, in his suit with Mr. McComb, Mr. Ames, as was generally understood, had sworn he did not hold Credit Mobilier stock in trust for any one. As he had delivered none to me, I had a right to be confirmed, as I was, in my impression that I owned none.

"4. In my senatorial contest Mr. Ames denied, both in conversations and in letters, that I was a stockholder in the Credit Mobilier; that I had ever received any of the stock, or any profits on any stock. Had I not a right to believe and assert the same?"

The substance of this statement is taken to be that he handed Mr. Ames $3,000 for investment; that Ames was not expected to invest it in the Credit Mobilier stock; that he had never advised him that he had so invested; that he had received no dividend thereon; and that he had no knowledge or information of such investment. On the contrary, his impression was that his money had been invested in Union Pacific stock and bonds.

As matter of fact, the committee find that the $3,000 paid by Patterson to Ames was the purchase-money of thirty shares of Credit Mobilier stock on the 31st of August, 1867; positive testimony of Mr. Ames to this effect, the payment of dividends in February following upon that amount of stock, and again in June, when he receipts to Ames "for $1,800 on account of dividends received by him as trustee on stock for my account."

The adjustment of the matter between the parties in May, 1871, when he again gave his receipt for "$757.24 in cash, on account of Credit Mobilier stock, and there are still due on the transaction thirty shares of stock in Credit Mobilier of America, and $2,000 in income bonds of the Union Pacific Railroad," and finally the transfer of thirty shares of stock to Mr. Patterson, and the delivery of the same to Morton, Bliss

& Co., Mr. Patterson's business correspondents, on May 12, 1871, would seem conclusive upon the question of the purchase of the stock. In fact, Mr. Patterson concedes that Ames's statement of the transfer and deposit of stock to his account and benefit is confirmed by the production of the certificate by Morton, Bliss & Co.

It becomes important to consider whether Mr. Patterson had knowledge that Mr. Ames had invested his money in this stock; was dealing with him as an owner, and paying to him dividends arising therefrom. Upon this point the receipt of the dividends in February, 1868, as testified to by Ames, and not denied by Mr. Patterson, the receipts of June following, and May, 1871, above recited, and adding thereto the letter of Morton, Bliss & Co., of May 12, 1871, addressed to Mr. Patterson at Washington, advising him of the delivery to them on his behalf of thirty shares of the stock, would seem to leave no escape from such conclusion. There is little reason to doubt that Mr. Patterson was the purchaser of thirty shares of Credit Mobilier stock in 1867, and that he received the dividends arising thereon as stated, and it only remains to be considered how he would be affected as a Senator by these facts. Had he such a knowledge of the relations of the Credit Mobilier to the Union Pacific Railroad Company, and of the interests and purposes of Mr. Ames in connection with this company, and in the disposition of the stock, as should have caused him to hesitate to enter into this transaction, or to retire from it when once entered upon?

Assuming that at the date of the purchase in August, 1867, he was not well advised of the nature of the investment that he was making, did not the rumors come to others who had embarked in the same enterprise, of differences and difficulties that had arisen between the companies, and which at a later date led to public debate in both Houses of Congress, come to him?

Retaining the stock and receiving his dividends, then, is it unreasonable to presume that he had acquainted himself with the character of the corporation in which he was a stockholder?

Mr. Patterson had invested $3,000 in April, 1867; on February 14, 1868, he received in return $2,328, eighty per cent. of the entire capital; June following, $1,800, sixty per cent. in addition; making in all, $4,138, one hundred and forty per cent., in less than ten months; and afterward, in cash, and in stock and bonds, the further sum of $6,257 over and above the capital invested.

Were not the magnitude and frequency of these returns calculated to lead to inquiry on the subject, and distrust as to the character of the transaction and the motives and expectations in which it had been proposed and was being executed?

How are we to account for the concerted efforts of both parties to conceal from the public the transaction, when questioned, except from the consciousness that it was something more and other than an ordinary business affair between private individuals?

The committee further find that, at a date subsequent to that of the purchase of the stock in the Credit Mobilier, and at a period when the character of the Credit Mobilier and of the relations existing between it and the Union Pacific Railroad Company had become matters of public notoriety, and must have become familiar to Mr. Patterson, and while he was in the receipt of dividends from his purchase of Credit Mobilier stock, he was still dealing with Mr. Ames in the stock and bonds of the Union Pacific Railroad Company, and disposing of the same in the stock markets in New York, through his bankers there.

The committee find in the statement of Mr. Patterson before the com-

mittee of the House of Representatives and his statements before this committee a contradictory relation of the transactions between himself and Mr. Ames; a suppression of material facts, and a denial of other facts which must have been known to him. When first called before that committee he makes what he calls a "brief and complete statement of all there is of this matter," so far as he was concerned. He then gives the following account of his transactions with Mr. Ames: "On two occasions subsequently I purchased of Mr. Ames stock and bonds in the Union Pacific Railroad, which were placed in the hands of a friend in New York for sale. My friend sold them at a fair profit. For this stock and bonds I paid the full market price in money honestly earned by myself. These transactions were *bona-fide* purchases and not exchanges of stock or distributions of dividends. It was a small investment, but reasonably profitable, and I regret it was not larger, as it was both honest and honorable. I doubt if there is any member of Congress who would deny the right or the propriety of such a purchase to-day. This is the whole of my connection with Mr. Ames or with the Union Pacific Railroad."

Recalled at his own request, at a later date, with the object to explain more fully the difference between himself and Ames, he fails to disclose the receipt of dividends on Credit Mobilier stock, and the adjustment in May, 1871, of the transaction and purchase of Credit Mobilier stock and dividends.

In his statement before the committee of the 14th instant, having then seen the receipts of the 22d of June, 1868, and of the 6th of May, 1871, and being in possession of the certificate of stock transferred to him by Ames, he still ignores the fact of the purchase; does not produce the stock, but contents himself with the statement, at the close of his testimony, that he had received information from his business correspondent in New York which goes to confirm the statement of Ames of the transfer and deposit of stock with Morton, Bliss & Co.

In his testimony of January 16th he declares that he had had with Ames only two transactions, and these were the purchase of Union Pacific stock and bonds, and denies having purchased or received, or that any one had held for him in trust, Credit Mobilier stock.

In his additional testimony of January 21st he repeats his denial of the 16th, and to fortify it produces a letter from Ames of June 9th, 1872, to himself, in which Ames says, "I wrote him that I did not think you ever had any of the stock, and if you had there was no more impropriety in it than owning bank stock," himself and Ames at the same time being parties to the receipts of June, 1868, and May, 1871, and to the certificate of stock of the latter date.

In his testimony of the 21st of January he states that more than a year after this conversation with Mr. Ames in regard to the purchase of Credit Mobilier stock, which was near the close of 1867, he had invested $3,000 in Union Pacific stock and bonds, and that this was the amount so invested. In his letter to Oakes Ames of the 4th of January last is this language:

"If pressed to know if I purchased at any time any bonds or stock of the road, you can say I did at the time they attempted to embarrass you, when the value of the stock was depressed, and I paid you the full market value for it. I paid you $7,000 in money for stock and bonds."

The committee cannot escape the conclusion that Mr. Patterson, being a Senator of the United States, in August, 1867, contracted with Oakes Ames, a member of the House of Representatives, for the purchase of thirty shares in the stock of the Credit Mobilier of

America at rates greatly below its esteemed value, and subsequently came into possession of the same; that he received the dividends which were from time to time declared thereon; that he subsequently, in the year 1869, dealt with Mr. Ames to a large amount in the stock and bonds of the Union Pacific Railroad Company for the purpose of profit, and disposed of the same in the stock markets of New York, with the knowledge of the character of the Credit Mobilier and of its relations to and connection with the Union Pacific Railroad Company; and further, that he had knowledge of the interest of Mr. Ames in, and his connection with, said companies; also of the object of Mr. Ames in thus dealing with him was to secure his friendly recognition of the interests of said companies and his own interest therein, and to influence his action as a Senator in matters of legislation affecting the same; and further, that, being inquired of in relation thereto before committees of both branches of Congress, he gave a false account of the transactions between himself and Mr. Ames, suppressed material facts, and denied the existence of other material facts which must have been well known to him.

The committee have reached a conclusion, after the most attentive consideration and anxious deliberation, which they would fain wish were otherwise, but which a sense of duty compels them to declare.

They submit the following resolution:

Resolved, That James W. Patterson be, and he is hereby, expelled from his seat as a member of the Senate.

IN THE SENATE OF THE UNITED STATES—SPECIAL SESSION.

MARCH 26, 1873.—*Resolved*, That the pamphlet entitled "Observations on the Report of the Committee of the Senate of the United States respecting the Credit Mobilier of America," submitted by Mr. Patterson, be received, filed, and printed with the report of said committee.

OBSERVATIONS ON THE REPORT OF THE COMMITTEE OF THE SENATE OF THE UNITED STATES RESPECTING THE CREDIT MOBILIER OF AMERICA. BY J. W. PATTERSON.

To the Senate of the United States:

I respectfully solicit permission to address to the Senate some observations on the report of the select committee appointed to consider certain evidence affecting members of the Senate, taken by a committee of the House of Representatives, and transmitted by the House to the Senate.

That report was communicated to the Senate on Thursday, the 27th of February.

It was not accessible in print, even to members of the Senate, until the evening of Friday, the 28th of February.

At that period of the session there remained but three days and a part of a fourth for the transaction of what was left of the business of the session, including several of the most important appropriation bills and other public business of great moment, which exigently occupied the attention of Senators night and day, so as to encroach, indeed, upon the hours of devotion and repose of the Lord's day, the 2d of March.

I made an earnest effort at the earliest moment when it was possible for me to obtain the floor, that is, on Monday, March 3, to have the report taken up for debate. But several Senators, such as Mr. Carpenter, Mr. Hamlin, Mr. Anthony, and Mr. Thurman, while concurring in decided expression of their desire to do justice to my name and reputation in the premises, by allowing me opportunity of hearing, also concurred in expressing the conviction that no time remained for intelligent debate on the subject, or *even for perusal of the report.* All they could do was to encourage me in the expectation that the subject might be considered at the approaching executive session of the Senate.

In this relation it is proper to say, that on Saturday, the 1st of March, Mr. Morrill, of Maine, chairman of the committee, as he repeated on Monday, the 3d of March, "did call the attention of the Senate to the fact that the committee had made a report in this case, and distinctly stated that, so far as the committee was concerned, having called the attention of the Senate to the subject-matter, they would wait its action, and consider that they had performed their duty in thus waiting."

I will not be so uncandid as to infer from this indifference of the chairman of the committee, and presumably of the committee itself, that they desired to have me deprived of the means of setting myself right before the Senate. I the rather prefer to conclude that they had come to regret the harshness of their report, in the presence of the action of

the House of Representatives. For the House, after most earnest and thorough debate on the subject, had now refused to vote the expulsion of Mr. Ames and Mr. Brooks, and refused to apply any censure whatever to the other inculpated members of the House.

It was thus morally impossible for the Senate to take up and consider the report in question during what remained of that session of the Senate.

The result, as to myself personally, was the infliction of a cruel hardship, not to say a positive wrong, without example in the legislative history of the country.

In the last days of the session of the Senate—in the expiring hours of the complete period of my own service in that body—at the moment of my separation from associates therein for so many years of reciprocal friendship, confidence, and esteem, and of the honorable discharge, in common, of duties among the highest in the Government of the United States—at such a time, a report is presented which, at the close of a long accusatory statement of alleged facts, and of reasoning thereon, submits a resolution for my expulsion from the Senate, when it was plainly impossible to have the matter discussed, to hear my defense, and to allow me to endeavor to relieve my character from the stigma so unjustly, in my judgment, affixed to it by the opinion of certain of my fellow-Senators.

Notwithstanding the hope held out to me that discussion of the subject might take place at the present executive session of the Senate, Senators have, in their wisdom, decided otherwise; and nothing remains for me except either to leave the Capital in silence, under the painful sense of the deep injury which has thus been done to me, or to throw myself on the indulgence of the Senate in the present manner, for the purpose of indignantly asserting, at least, my innocence of the wrongful acts charged by this report, and of entering a solemn protest against the sentence of condemnation with which it concludes, as being supremely unjust in itself, and wholly unsupported by the evidence on which it professes to be founded.

The Senate could not refuse to any citizen of the United States the privilege of memorializing them in reference to proposed action of the Senate prejudicial to his interests or to his reputation; they cannot do less in favor of one of their late colleagues, a retiring Senator.

And here, before proceeding further, let me claim not only the indulgence of the Senate as a whole, but more especially the forbearance of the authors of the report.

I make no imputation on their integrity or their good faith. They had a painful duty to discharge, and they have come to a conclusion, which, as they no doubt truly declare, "they would fain wish were otherwise." I do not impugn their motives, but only their conclusions. The very atmosphere they breathed during this investigation was one of passion and of error. They were borne along in the current of vituperation and misrepresentation, which seemed for a while to overwhelm the better judgment of both Houses of Congress. It is in the midst of such circumstances that they have arrived at conclusions demonstrably erroneous. I rely implicitly on the personal candor and the elevation of character of each and of all of them, to listen patiently, and without offense, to criticism of their report, so far as the same may be necessary to relieve me from the heavy imputations which they have cast upon me as a Senator and a *man*, as they themselves would desire to be heard, if, which God forbid, the mischances of political life should ever involve either of them in unjust accusation.

The report, after presenting what purports to be an abridged recital of the evidence affecting me, sums up the whole as follows:

The committee cannot escape the conclusion that Mr. Patterson, being a Senator of the United States in August, 1867, contracted with Oakes Ames, a member of the House of Representatives, for the purchase of thirty shares in the stock of the Credit Mobilier of America, at rates greatly below its esteemed value, and subsequently came into possession of the same; that he received the dividends which were from time to time declared thereon; that he subsequently, in the year 1869, dealt with Mr. Ames to a large amount in the stock and bonds of the Union Pacific Railroad Company for the purpose of profit, and disposed of the same in the stock-markets of New York, with the knowledge of the character of the Credit Mobilier and of its relations to, and connection with, the Union Pacific Railroad Company; and, further, that he had knowledge of the interest of Mr. Ames in, and his connection with, said companies; also of the object of Mr. Ames in thus dealing with him was to secure his friendly recognition of the interests of said companies and his own interest therein, and to influence his action as a Senator in matters of legislation affecting the same; and, further, that being inquired of in relation thereto before committees of both branches of Congress, he gave a false account of the transactions between himself and Mr. Ames, suppressed material facts, and denied the existence of other material facts which must have been well known to him.

Now, it is my duty to say, in self-vindication—it is my right to say, because it is true—it is said by me in sorrow rather than anger—this inculpatory statement is inaccurate to the last degree; it states some things which are absolutely contrary to the proofs; it contains inferences, set forth as proved facts, although such inferences are not supported by the facts, and are not true; it states innocent facts in a form of exaggeration to make them seem to be wrongful; it imputes knowledge of wrongful purposes on the part of others, without any proof of such knowledge, and contrary to all presumptions, both of law and fact; it charges action under corrupt influences, not proved, and contradicted by the evidence; and it magnifies forgetfulness of some of the details of a transaction long past, or of its possible relation to other transactions, into imputation of suppression of material facts, or affirmative or negative false statement of facts.

In order fully to comprehend the manifest errors which constitute the essence of the report, it is necessary to take up the summary in detail, and examine the several propositions which it contains.

The committee, they say, cannot escape the conclusion—

1. That Mr. Patterson, being a Senator of the United States, in August, 1867, contracted with Oakes Ames, a member of the House of Representatives, for the purchase of thirty shares in the stock of the Credit Mobilier of America.

It is not exact to say that Mr. Patterson *contracted for the purchase;* the *evidence* is that whatever he purchased he paid for in cash, at the time of purchase, although he did not receive any certificate.

In ordinary circumstances this distinction would not be material; but here it is. The Senate cannot exclude from its mind the reflection that, as appears by evidence in this report and official reports to the House of Representatives, other members of both Houses had dealings with Mr. Ames in the stock of the Credit Mobilier, and that, in some of those cases, the price of the stock was to be re-imbursed out of the dividends declared. Whether that fact be, or not, of importance, certain it is that the *form* of the transaction in those cases has been made the subject of inculpation; and, if there be any cause for such inculpation, then the different form of the transaction in my case tends to justify me, and to show the correctness of the transaction, and therefore ought distinctly to appear in a judicial summing up of the whole case.

Moreover, in my case, unlike that of others, the purchase was without any guarantee of value, or contract of re-imbursement at will, with nterest.

I maintain that the transaction was rightful, correct, and proper, on my part; that it was lawful in itself, and in no respect in conflict with my duties as a Senator.

Why not? On what theory of public duty or public morality is objection to be made to the purchase, by a Senator, of stock either in the Union Pacific Railroad Company or in the Credit Mobilier?

It has, indeed, been assumed, in the course of these investigations. that a member of Congress should not hold such property, because it may be the subject of legislation on the part of Congress.

Is it understood, then, that Congress is to be constituted only of men utterly destitute of property at present, and hopeless of, or indifferent to, its acquisition?

Doubtless you may find persons willing to enter Congress who have nothing; but will you find any who do not desire to have anything? I think that would be difficult; and if it were practicable, it would not tend to the purification of public affairs to lay down the rule of *poverty* as the essential qualification of a member of Congress. Poor men are as eager to acquire property as the rich are to increase theirs. To constitute Congress on the theory of poverty, and of exclusion from all gainful pursuits whatever, supposes men engaged by vows and by convictions of ascetic self-privation, such as prevail among some religious orders, but which it is perfectly visionary to expect to introduce into Congress.

No. It is not for the public interest that members of Congress should be without property or the desire of it; which would imply, of course, the being without family, without local interests, without knowledge of the material concerns of the country, without identification either with the public or the private prosperity of the people of the United States. Such a Congress would be a mere debating society of empirical, impractical, and mischievous communists.

In this new Utopia we are to have no lawyers in Congress; for it will happen, by possibility, that a lawyer should have been counsel for somebody or some thing, who or which may, at some time, come before Congress: in which event, if we act on the foolish premises which pervade these investigations, it is presumed that such lawyer is disqualified from acting as a member of Congress. What say the members of the bar in the Senate to this theory? Are none of them of counsel for any railroad, for instance, having possible interests in Congress?

Meanwhile, assuming that the Constitution of the United States has not yet been amended to the effect of excluding from Congress all men who have, or desire to have, property, or all lawyers who have or who may desire to have clients, let us look at the actual facts of the situation, without hypocrisy, false pretenses, or affectation.

The malfeasance imputed to me is the purchase, in a period of four years, and sale in the "stock markets of New York," of stock to the amount of $7,000 in the Union Pacific Railroad Company and Credit Mobilier, which companies might become the subject of action on the part of Congress.

I appeal to Senators to put themselves under investigation in this respect. Is there a single member of the Senate who, during those four years, has not bought and sold interest either in some national railway, or in some national bank, or in some national insurance company, or in some fraction of the public domain, or in some mine situated on the national domain, or in something else, no matter what, appertaining to the United States, subject to be treated in Congress? Have they not purchased property in the District of Columbia, the value of which de-

pends on Congress? And how many of the Senators are there, or rather how few, who have no interest in any coal property, or any iron property, or any foreign merchandise, or any shipping property, or any manufacturing property, or any agricultural property, such as live-stock, tobacco, hemp, wool, wheat—or any material substance or thing whatsoever—which is liable to be seized upon for external duty or internal impost, and changed in value, by the omniverous jaws of the tax power of the United States? Is not many a Senator possessed of securities of the United States, which rise or fall according to the daily votes of Congress? May we not look around on the seats of the Senators, and find interests of millions upon millions which are or may be affected by the legislation of Congress?

I might refer, in illustration of this question, to the time when one-half the members of this Senate were fighting in the interest of their own slave labor, and the other half in the interest of their own free labor; for the twenty years' controversy, which raged here between the adverse interests of cotton-production and cotton-manufacture, was championed on both sides by members having personal interest in the question.

I appeal to the honorable members of the committee: Do not they each and all possess interests subject to be affected by their votes in Congress? They do; they must. For there is no object which is not subject, either as investment or as consumption, to be affected, at least, by the tax legislation of Congress.

It must be so; it ought not to be otherwise. Members of the Senate are not here for the purpose of dreaming over transcendental or speculative questions of sentiment or theory; they are charged with the supervision of interests, and the distinct interests of their respective States, as well as the general interests of the United States. And it is well. It is well for the public good that Representatives in Congress and Senators should themselves have interests in common with their constituents and their States. The theory of the report would produce a body of Senators as little useful for their high duties as children in the nursery.

If, in such case, there be any conflict of duty between the public and private interest of the Senator or Representative, the standing rules provide for the contingency.

I repeat, therefore, the transaction which lies at the bottom of this investigation was lawful in itself, and in no respect in conflict with my duties as a Senator.

I shall have occasion to speak on other relations of this point in the sequel.

But I call attention now to the fact that the committee do not seem prepared themselves to affirm that the transaction *per se* was wrongful in any respect, for they proceed to qualify the proposition as follows:

2. At rates greatly below its esteemed value.

In all the discussions of this subject the fact here alleged has been adduced as proof of improper motives on the part of one or both of the parties to the transaction. We cannot shut our eyes to this consideration. We are bound to presume that the committee inserted this qualification in an argumentative sense, to indicate the wrongfulness of an act innocent in itself, but wrongful if done under such circumstances.

I regret to say that the circumstance thus adduced as constituting the *gravamen* of my transaction did not occur, the contrary being positively established by the evidence. Without quoting that evidence in detail, it suffices to cite the finding of the committee itself, as follows:

The market-value of Credit Mobilier stock, in August, 1867, was at par, and rose in the next six or eight months to the value of $200 or $225 per share.

Now, the transaction between myself and Mr. Ames was in "August, 1867," at which time the stock was at par. The committee, while stating here that the purchase of the stock was made "at rates greatly below its esteemed value," *omit to state* that the sum paid was $3,000 in cash; that is, at the estimated actual value of the stock. If the committee had not forgotten this and omitted to state it, the summary itself would have shown that my stock was not purchased "at rates greatly below its esteemed value."

In truth, as the evidence before the two houses shows, my stock, and mine alone, was purchased before the stock of the company had commenced to rise.

The committee say:

3. That he subsequently, in the year 1869, dealt with Mr. Ames to a large amount in the stock and bonds of the Union Pacific Railroad Company, for the purpose of profit, and disposed of the same in the stock-markets of New York.

Is not this a most exaggerated form of description for a single transaction, and that by no means a very considerable one? Does not the expression, "dealt with Mr. Ames to a large amount in the stock and bonds of the Union Pacific Railroad Company," and the further expression, "disposed of the same in the stock-*markets* (plural) of New York," tend to produce impressions of numerous transactions, and to hundreds of thousands of dollars of amount? And yet behind these phrases of enormity there was but a single purchase of stock to the amount of $4,000. If the committee were not conscious of the feebleness of the case against me, would they fall into this style of extravagance and exaggeration?

4. With the knowledge of the character of the Credit Mobilier.

What was the *character* of the Credit Mobilier? There would seem to be a latent implication here of something culpable in the character of the Credit Mobilier.

Certainly, if there was any such thing, it was at that time wholly unknown to me. I possessed no special knowledge on the subject. There is nothing in the evidence—not a tittle of proof—to bring home to me any knowledge, at that time, of anything peculiar or objectionable in the character of the Credit Mobilier.

What was the character of the Credit Mobilier? Did anybody have special knowledge on the subject, at that time, except its particular managers? Did any person in Congress, at that time, impute wrongfulness of constitution, character, or objects to the Credit Mobilier? No such thing is known to me; no such thing was in proof before the committee.

Nay, at this day, after three volumes of evidence on the subject have been taken by the two Houses of Congress, has anything wrongful in the character of the Credit Mobilier been proved? If so, it has escaped my notice.

5. With the knowledge of the character of the Credit Mobilier, and of its relations to, and connection with, the Union Pacific Railroad Company.

I deny that, at that time, I had any exact knowledge of the relations of the Credit Mobilier to the Union Pacific Railroad Company, or its particular connection therewith, and not an atom of evidence is to be found in the report to bring home to me any knowledge on the subject, other than such as consisted in the incidental recommendation of the stock by Mr. Ames.

It is extraordinary that the committee should say that they "cannot escape the conclusion" of my imputed knowledge in these respects, when that conclusion is wholly conjectural and inferential, and not substantiated by any specific fact whatever.

It is impossible not to see that the committee are framing conclusions, not upon any facts of notoriety existing in 1867, but upon the investigations of the late Congress.

It is superlatively unjust to regard the purchase of such stock by me or other members, in 1867 or 1868, in the light of the knowledge elicited by the two committees of the late House of Representatives.

We know now that the Credit Mobilier of America is a corporation created by the legislature of the State of Pennsylvania, and invested with various powers of action, in virtue of which it was susceptible of being employed, and was employed, as a *construction company* for the Union Pacific Railroad.

But the knowledge of this fact in all its details was at that time confined to a relatively narrow circle of persons. I was not of that circle.

6. And, further, that he had knowledge of the interest of Mr. Ames in, and his connection with, said companies.

I utterly deny that I had any such knowledge as could induce me to suspect Mr. Ames of any *improper* relation to those companies. There is not a scintilla of evidence in the report to bring home to me such knowledge.

In the eye of all the world, Mr. Ames was one of the managers of the Credit Mobilier. He was avowedly engaged in the construction of the Union Pacific Railroad. He was also apparently engaged in other large enterprises, as to which, however, I had no particular information.

To impute to me a knowledge of all these various enterprises, and of their true relation one to another, simply because of my ownership of a small amount of stock in one or the other of those companies, and the same being recommended to me by Mr. Ames, would be just as unreasonable and just as injurious as to impute to the purchaser of a few shares of stock in the Erie Railroad knowledge of, or complicity with, all the jobs and operations, public or private, of Jay Gould and James Fisk.

Here again, as in other parts of this case, the committee wrongfully regard things in the light of their present information.

An able committee of the late House of Representatives has devoted two months steadily to the examination of these questions. That committee, it may be supposed, has arrived at some knowledge on the subject. What that knowledge is there will be occasion for me to discuss in the sequel. Suffice it to say that that committee, with its examination of the general subject so much more complete than the incidental examination made by the committee of the Senate, as evinced by its report of nearly eight hundred pages, differs totally from this committee in its appreciation of the character and conduct of mere *stockholders* in the Credit Mobilier. That committee limits blame, if there be cause of blame anywhere, to the *managers* of that company. It expressly exempts from blame persons outside of the management. They are not to be presumed to possess any "knowledge of the wrongful use of its stock or of the funds of the railroad." As to them, "it is difficult to believe that they had any consciousness that they were doing wrong, or saw the whole proceeding in the light in which the committee now state it." Such persons "thought they were only dealing with their own property; they did not think they had anything to do with the Government."

That committee, earnest as it was, and thorough in its investigations, and severe in its conclusions respecting the managers of the Credit Mobilier, did not presume to condemn every stockholder merely because he was a stockholder, or to criminate him on inferences, conjectures, or presumptions without proof, and contrary to reason, such as are applied to me in the present report.

7. The committee proceed to say:

Also of the object of Mr. Ames in thus dealing with him was to secure his friendly recognition of the interests of said companies, and his own interest therein, and to influence his action as a Senator in matters of legislation affecting the same.

The meaning of this passage is obscure, because no possible reading of it is compatible with grammatical construction; which shows how hastily the report was prepared.

Does it mean to say that "the object of Mr. Ames in thus dealing with him (me) was to secure," &c.? Then the *of* which precedes *the object* is out of place. Or does it mean, going back in the sentence, to say: he (myself) had knowledge of the object of Mr. Ames in thus dealing with him was to secure, &c.? Then the *was* after *with him* is out of place.

In the first view of the phrase, it asserts that Mr. Ames, in thus dealing with me, had a certain purpose. But the report does not contain any proof that Mr. Ames had any such purpose.

In the second understanding of the phrase it impliedly asserts that Mr. Ames had such a purpose, and expressly asserts my knowledge of that purpose.

I deny that, if Mr. Ames had such purpose, any knowledge of it was possessed by me. There is not a particle of proof to that effect in the evidence. There is positive and uncontradicted evidence to the contrary. The conclusions of the committee are all mere conjecture, inference, imputation without and against proof.

In this relation let me call the attention of the Senate to the true nature of the question.

If there be anything in the series of inferential conclusions which have been commented upon, it is either to impute to me guilty complicity with certain supposed criminal acts of the managers of the Credit Mobilier, or to impute to me the being bribed by Mr. Ames.

Either hypothesis constitutes a grave accusation of criminality.

As to the first, to impute to every shareholder in a company guilty complicity by mere presumption in imputed wrongful acts of the directors, violates all sense of reason and justice. And yet such is the monstrous implication of the report.

The Senate contains in its body many of the most eminent jurists in the land. I am sure they will not say, as this report impliedly does, that a member of the Senate is to be expelled on presumption of guilty knowledge of, and criminal complicity with, any alleged wrong committed by the directors of a railroad or other company in which he may happen to own thirty shares of stock.

Nay, I am assured that even a copartner is not in a criminal proceeding *presumed* to have guilty knowledge of a criminal act done by a copartner of his, though in the business of the firm; it must be *proved*.

Of course, and by still stronger reason, it is unjust to presume a mere shareholder in a corporation to be guilty by imputation.

The committee assume that my investment of $3,000 produced such enormous profit as should have led me to suspect there was something improper in the transaction. Surely that is forced construction. It is notorious that all speculations in stocks are founded in the hope of large profits to be derived from a small venture. I have little personal knowl-

edge of transactions of this class, but I read continually in the newspapers of immense gains being made in New York by persons who do not invest anything, who buy and sell on time, and receive large profits by fluctuations in prices of railway stock or bonds. I am told, also, large profits frequently accrue in the most ordinary commercial operations; that a freighting ship sometimes earns on a single voyage, or an importer on a single cargo, quite as large a percentage of profit as that which was received by me on this stock within the first year, and the payment of which seems so suspicious to the committee. Is it not contrary to reason to take it for granted in all such cases—and if the rule is good in one case it is good in all cases—is it not unreasonable to assume that in all such cases large profits imply a fraudulent transaction?

Such misconstruction is specially objectionable when applied to me. Mine was the ordinary case of a man of relatively little property, who has relations of friendship with a wealthy man engaged in large and profitable enterprises, and who was admitted to participate therein for a small amount, as a favor. The rich man conducts the enterprise in his own way, and in due time reports to the poor man so much profit on the investment, the latter having no more part in the management of the transaction than if he were an utter stranger to it, without interest. It is familiar knowledge to everybody that such transactions are of ordinary and common occurrence, as for instance in maritime adventures. And all investments in banks, insurance companies, railroads, and other business corporations are of the same character. What knowledge of or control over the managers is possessed by the humble holders of twenty or thirty shares in any of these incorporated companies? But in the investigation of the affairs of the Credit Mobilier, the minds of men seem to have lost their balance, without which it would be impossible to understand how the intelligent members of this committee should have drawn such injurious conclusions from the simple fact of the assumed largeness of the dividends of the Credit Mobilier.

Meantime, it is proper to say that the dividends on that stock have been grossly exaggerated, seeing that the stock itself is a total loss, and that the capital is to be deducted from the amount of the dividends.

The committee, in order to make out a case of excessive profits, recite the investment of $3,000, and the payments thereon of 1868, and then pass to the payments of 1871, *as if they were all one transaction, omitting the intervening investment of* $4,000 *in* 1869. Is it not inconceivable that a committee of the Senate should by such process of calculation and inculpation arrive at the conclusion of recommending the expulsion of a fellow-Senator?

The second branch of the accusation seems to be imputed bribery.

On this point the committee have the emphatic denial of both Mr. Ames and myself. Here also the report assumes without proof, and accuses on mere inference and conjecture.

Meanwhile the Senate knows that the committee of the House of Representatives, before which was taken the evidence originally referred to the Senate, was chiefly occupied in investigating similar transactions between Mr. Ames and various members of the House.

Now, that committee, in a spirit of equity which did them honor, report conclusions as follows:

The committee do not find that Mr. Ames, in his negotiations with the persons above named, entered into any detail of the rélations between the Credit Mobilier Company and the Union Pacific Company, or gave them any specific information as to the amount of dividends they would be likely to receive further than has been already stated. They all knew, from him or otherwise, that the Credit Mobilier was a con-

tracting company to build the Union Pacific road, but it does not appear that any of them knew that the profits and dividends were to be in stock and bonds of that company.

The Credit Mobilier Company was a State corporation, not subject to congressional legislation, and the fact that its profits were expected to be derived from building the Union Pacific road did not, apparently, create such an interest in that company as to disqualify the holder of Credit Mobilier stock from participating in any legislation affecting the railroad company. In his negotiations with these members of Congress, Mr. Ames made no suggestion that he desired to secure their favorable influence in Congress in favor of the railroad company, and whenever the question was raised as to whether the ownership of this stock would in any way interfere with or embarrass them in their action as members of Congress, he assured them it would not.

The committee, therefore, do not find, as to the members of the present House above named, that they were aware of the object of Mr. Ames, or that they had any other purpose in taking this stock than to make a profitable investment. It is apparent that those who advanced their money to pay for their stock present more the appearance of ordinary investors than those who did not; but the committee do not feel at liberty to find any corrupt purpose or knowledge, founded upon the fact of non-payment alone. * * * * *

The committee have not been able to find that any of these members of Congress have been affected in their official action in consequence of their interest in Credit Mobilier stock. * * * * * *

It ought also to be stated that no one of the present members of the House above named appears to have had any knowledge of the dealings of Mr. Ames with other members.

The committee do not find that either of the above-named gentlemen, in contracting with Mr. Ames, had any corrupt motive or purpose himself, or was aware that Mr. Ames had any, nor did either of them suppose he was guilty of any impropriety or even indelicacy in becoming a purchaser of this stock. * * *

The only criticism the committee feel compelled to make on the action of these members in taking this stock is, that they were not sufficiently careful in ascertaining what they were getting, and that, in their judgment, the assurance of a good investment was all the assurance they needed.

I respectfully submit that all these considerations apply fully to my own case, with distinct intimation that cases like mine, where the money was advanced to pay for the stock, (and, I add, without guarantee or promise of re-imbursement,) exhibit the conditions of ordinary investment more clearly than those cases in which the money was not so advanced.

And the House committee conclude as follows:

The committee find nothing in the conduct or motives of either of these members, in taking this stock, that calls for any recommendation by the committee of the House.

Thus, both committees of the House exonerate individual members of the House, to the end of attaching blame where it belongs, if anywhere, that is, to the *managers* of the Credit Mobilier.

I entreat Senators to reflect, in view of all this, how harsh has been the judgment of their committee as compared with that of the two committees of the House, seeing that, as to an act of mine in some respects similar, but with material discrepancies in its character, and done under different circumstances, which diversities are altogether to my advantage, where the former recommended a vote of expulsion, the latter find nothing to condemn, or which calls for any recommendation on their part.

8. Of the points in the summing up of the report, nothing remains but the charge of misstatement or suppression of "material facts, which must have been well known to him, [me.]"

I do most solemnly deny that, in the explanations given by me, whether to the committee of the House or that of the Senate, there was any *intentional* misstatement or suppression of facts. It is a most cruel and harsh misjudgment of my declarations to distort and misconstrue forgetfulness of the exact nature and details of a transaction in stock more than five years ago into willful misstatement or suppression.

I frankly acknowledge, and beg pardon of the Senate for, the error committed by me in going before the committee of the House to make any statement whatever on the subject. Let my misstep, in this respect, be a warning to all Senators hereafter not to submit themselves to any criminatory investigation on the part of a committee of the House of Representatives.

But the error was a natural one, the result of sensitiveness to blame, which affects most persons who hold elective offices, and are thus made subject to what is called public opinion—that is, newspaper crimination. I felt conscious of having done no wrong, and therefore voluntarily yielded myself to the invitation of the committee of the House.

It is now in evidence before the committee of the Senate that there were two distinct transactions between Mr. Ames and myself, at a distance of two years one from the other: first, an investment of $3,000 in the stock of the Credit Mobilier; and, second, one of $4,000 in the stock of the Union Pacific Railroad Company. Receipts are produced by Mr. Ames which tend to show that both transactions occurred. But those very receipts confound the two transactions together, and also serve to show how easy it was for the memory to confound the two together, and retain distinct impression of the character of only one of them, namely, investment in stock of the Union Pacific Railroad Company.

What is memory? Is it anything more than the present perception of an impression on the mind, which impression may exhibit there delusive images of things which never existed, or defective, imperfect, and confused images of things which have existed? How few in number are the memories which can retain for years the details of any transaction, whether affecting themselves or others? Such memories are altogether exceptional, if any such exist. To profess to recollect such details is a much more just cause of suspicion than to declare that they are forgotten. All reasonable presumptions are in favor of the latter and against the former. But the committee reverses the rule of universal presumption, in order to charge me with misrepresentation instead of forgetfulness.

Of the two transactions, blended and confounded together in the receipts, only one remained impressed on my mind at the time when my attention was first called to it, in June, 1872. And that impression was fixed there—that is to say, that my investments had been exclusively in the stock of the Union Pacific Railroad, and not at all in Credit Mobilier—by the assurance, repeatedly given to me by Mr. Ames, both orally and in writing, of my not being a stockholder in the Credit Mobilier. And he said this to others within my knowledge, which negatives the injurious supposition that he said it to me untruly, and by concert, in order to conceal the truth.

This impression continued in my mind, without any incident having intervened to obliterate or modify it, when, in December last, the matter became a subject of inquiry before a committee of the House. I, therefore, positively denied holding any stock of the Credit Mobilier.

If my memory had retained impression of possessing any such stock, there would have been no reason for suppressing the fact, while admitting ownership of stock in the Union Pacific Railroad.

But the question before the committee was of the ownership of stock of the Credit Mobilier, and my statements, whether affirmative or negative, were made with reference to the specific issue.

All the reasoning of the committee to my prejudice is founded on assumed presumptions. They allege that I denied things which I could

not but know. How do they know what I could or could not know? That is mere presumption on their part. We are dealing with presumptions, founded on theories of human action, and referable to the constitution of the human mind. On these premises the committee act.

But I insist that all presumption of human action is contrary to the conclusions of the committee. If I had *known* that the transaction with Mr. Ames was in Credit Mobilier, should I have proceeded, according to any reasonable theory of human action, to deny it positively, subject to have it proved against me in the sequel? If I had remembered the existence of the receipts, should I have denied the fact they imply, knowing that they could be produced to contradict me? Certainly not. That denial is the most cogent proof of my sincerity and good faith. Remember that my first denial, in June, 1872, was made, not only on the strength of my own memory, but also of that of Mr. Ames. How, in such circumstances, should I doubt the correctness of my impressions, either then, or when the subject came up again in the following December?

As to the receipts, it is to be observed that the second in date, that of June 22, 1868, makes no mention of the name or nature of the stock to which it refers. The more circumstantial ones of February 14, 1868, and May 6, 1871, could not have been read by me; that is proved by the admitted fact of erroneousness in both, as well as confusion. Thus, the former charges interest incorrectly, and the latter purports to receipt for *two hundred* shares of the Union Pacific Railroad stock, which is incorrect; and the calculations or results do not tally with any knowledge of mine or of Mr. Ames himself. Surely, if I had read these receipts at the time with any such attention as to impress them on my memory, I should have sought correction or explanation of some of those manifest errors and obscurities on the face of the receipts. And all these considerations are conclusive to show that my forgetfulness of the transaction was natural, real, sincere, and not intentional suppression or denial of facts within my knowledge and my recollection, as charged by the committee.

But it further appears in evidence that a certificate for thirty shares of the stock of the Credit Mobilier, standing in the name of Mr. Ames, and indorsed by him, had been lodged with Messrs. Morton, Bliss & Co., in New York, and it appears that a letter had been written notifying me of the fact.

I had and have no recollection of that letter, and never had otherwise knowledge of the deposit of the stock by Mr. Ames. And it appears that my particular friend, Mr. Morton, the head of the house, himself had no remembrance of the fact, as stated by him both in a letter to me and in his testimony before the committee; nor, as it appears, had Mr. Ames. It was the absence of such knowledge, on the part both of Mr. Morton and myself, which led me to deny before the committee of the House the possession of any such certificate. I did not, therefore, deny a "material fact which must have been well known" to me, or suppress any material fact, or give a false account of the transaction; for the forgetfulness of one of the incidents of a transaction, and a statement of it founded on that forgetfulness, is not the giving a "false account" of it—which consists only in the intentional misstatement or misrepresentation of the fact. Nay, to have made a statement contrary to my recollection of the facts, that, and that alone, would have constituted false testimony. I did not intentionally misstate, suppress, or deny any known fact.

There is a circumstance which conclusively proves my perfect good faith in all the statements made by me concerning this transaction.

Concede that my memory has been in default; that, although forgetting the nature of the transaction, I had really purchased of Mr. Ames, in August, 1867, thirty shares of Credit Mobilier. It is to be borne in mind that neither then nor at any time since had I been made an actual stockholder. Mr. Ames held the stock. When he made transfer, it was only transfer of his certificate, which so remained in the safe of Morton, Bliss & Co. Now, in the progress of time that stock had become worthless; or, as Mr. Ames testifies, "This stock now is not worth anything; *that is wiped out.*" Now, if I had possessed this stock, or known that I was entitled to it, should I have left it all this time to melt away into nothingness? Should I not have consulted with Mr. Ames from time to time as to its value? Should I not have anticipated its decline, and proceeded to make sale of it while it had value, and was therefore saleable, instead of suffering it to remain until it became worthless, whether in the hands of Mr. Ames or Messrs. Morton, Bliss & Co?

There is an expression in the report which implies that Mr. Ames placed the stock in the hands of Messrs. Morton, Bliss & Co. in pursuance of arrangement with me. I have no recollection of any such arrangement, and there is no proof on the subject.

The report also represents me as purchasing of Mr. Ames stock and bonds of the Union Pacific Railroad Company, "on two occasions," and investing therein, "in all," the sum of $4,000, and of the placing such "stock and bonds" in the hands of Morton, Bliss & Co. for sale on my account. That statement is quite erroneous, and tends to show how imperfectly the evidence was examined by the committee. There was but one transaction for the purchase of stock in the Union Pacific Railroad, assuming that the first transaction was in Credit Mobilier.

The committee also, on two occasions, take pains to say that my stock was sold in the *stock-markets* of New York. Apart from the exaggeration of the expression stock-markets, in plural, it may be pertinent to inquire why any stock of mine should not be sold in *New York*. Where should it be sold? In Alaska? The committee also charge sale through my *bankers*. Is there anything criminal in that? If any one happens to be a holder of railway stock or of bank stock, must he hawk it about for sale in person? I do not understand why these immaterial and common-place incidents are made to figure in accusation.

The committee, in order to convict me of misstatement, take up the explanations given to the committee on the 14th of February, of the reasons why, when it was first suggested to me that I held stock of the Credit Mobilier, I had contradicted the assertion; they then treat these explanations as if they were a repetition of that contradiction; and thereupon, overlooking the fact that on the receipts being exhibited to me I distinctly recognized my involuntary and unconscious error, the committee charge me with suppression of facts, which acts were already communicated in the most explicit terms, not only to them, but to the committee of the House. Again, it amazes me to see that, by such processes of reasoning, a committee of the Senate should come to the conclusion to recommend the expulsion of a Senator.

While not believing, in June last, or even in January, that my first transaction with Mr. Ames had been a purchase of stock of the Credit Mobilier, for the sufficient reasons already stated, that no trace of the transaction remained in my memory, and that my forgetfulness was confirmed by repeated statements of Mr. Ames to me and others,

nevertheless, on subsequently seeing the receipts, I yielded to the conclusion that it must have been so, at least in the understanding of Mr. Ames. It is singular, meanwhile, that the committee themselves admit that room for controversy on that point still exists, not affirming it as proved, but saying only "there is little reason to doubt" on the subject. Then there is doubt. And yet, on these confessedly doubtful premises, the committee base a positive charge of falsification.

Whether I received the letter which, as it would appear, Morton, Bliss & Co. addressed to me on the 12th of May, 1871, I do not know. All I can say is that I have no recollection of it. Is it not in the observation of every Senator that letters come to him the reception of which soon passes from his remembrance?

The committee inquire:

Did not the rumors that came to others who had embarked in the same enterprise, of differences and difficulties that had arisen between the companies, and which at a later date led to public debate in both Houses of Congress, come to him?

I reply, no, I am not aware that any such rumors came to my knowledge calculated to shake my confidence in Mr. Ames, or to lead me to know or suppose anything wrong of the Credit Mobilier.

What were those rumors? A suit brought by James Fisk, jr., in July, 1868, against the Union Pacific Railroad and the Credit Mobilier? Why should that disturb me or any other person? How could any of the doings of James Fisk, jr., help or harm me? A suit brought by H. C. McComb against Mr. Ames, in November, 1868? How could I have knowledge of such a suit a year before its institution? And I do not believe its relation to the questions now before Congress was known to anybody except the parties and their counsel. If there was anything in these rumors worthy of attention, and if it had been known to me, it could not have affected my interests or my conduct. I had purchased of Mr. Ames absolutely and for cash. I had not reserved any right to rescind the bargain, give up the stock, and take back my money, as had been done by Mr. Grimes, Mr. Alley, and other members of Congress.

The committee, in calculating the amount of dividends received by me, proceed on premises which are not very apparent, and arrive at conclusions which do not correspond with the statements of Mr. Ames, and which it is impossible for me to verify. In this way, partly by calculation and partly by conjecture, the committee infer that large profits were derived from the Credit Mobilier. I think the committee exaggerate these profits. But it seems to me that it is a fact unheard of in human affairs, that the receipt of large profits—real profits, not a gift—on a stock transaction should be assumed to be proof of fraud, to the end of the expulsion of a Senator. But the extreme unreasonableness of this line of reasoning on the part of the committee has already been abundantly demonstrated.

Next, the committee infer, conjecturally, according to the accustomed process of reasoning which pervades their report, concerted efforts of both parties to conceal the transaction, impelled by consciousness that it was something more and other than an ordinary business affair. I deny the concerted effort, and I deny the imputed inducement to such concert.

It is one of the infirmities of members of Congress—I confess it with some sense of shame, on my own part,—to shrink from discussion of their private affairs. We know by painful experience that it does not matter how innocent any private transaction of ours may be, we are sure that the most innocent transactions will be so blackened by invent-

ive malice as to make us seem to be guilty, though pure as the angels in heaven. With most public men in the United States, therefore, the great solicitude of life is to avoid censure, and, when censured, to lighten the force of the blow as much as possible by reticence and by concealment. I suppose few men, at the present day, would have the courage to do that which was done, in such an emergency, first, by Alexander Hamilton and afterward by Daniel Webster, that is, when harassed by misrepresentations or exaggerations of acts of their private life, to advance boldly to the face of the world, to disclose all the facts, frankly and defiantly, and manfully to demand of their countrymen absolution of infirmities or approbation of misrepresented acts of real honor. But may I not repeat, that in thus shrinking from discussion of my private affairs, I do but partake in the common condition of public men in the United States at the present time? I utterly deny that it proves or implies consciousness of wrong.

I confess, therefore, that in June, 1872, I desired not to be misrepresented on this subject while a candidate for re-election to the Senate by the State of New Hampshire. I fully believed that I had not held any stock of the Credit Mobilier, and to say so was the shortest way to dispose of the question, and without which it would be necessary to enter into long discussion of the history of the Union Pacific Railroad and the Credit Mobilier. I stated the fact as I understood it to be. Mr. Ames confirmed me in this understanding, both orally and in writing, and there is nothing in these incidents to justify the condemnatory conclusions of the committee.

The committee continually assume that there was something unlawful or improper in the relation between the Union Pacific and the Credit Mobilier Company, which "had become matters of public notoriety, and must have become familiar to Mr. Patterson; and while he was in the receipt of dividends from his purchase of Credit Mobilier stock, he was still dealing with Mr. Ames in the stock and bonds of the Union Pacific Railroad Company."

With knowledge of anything wrong in the conduct of the Credit Mobilier toward the Union Pacific Railroad, it would have been absurd for me to buy stock in the latter at the risk of thus losing all my investments and being involved in discreditable transactions. To have done so would have been an act of folly rather than of criminality. But there was no such notorious knowledge within my reach. I do not believe any such knowledge was possessed by the members of the committee at that time. Here, as throughout the report, the committee are judging me, not in the light of the knowledge of these transactions possessed by men in the years 1867 and 1868, but of the knowledge, or supposed knowledge, imparted to us by these investigations. If the supposed misconduct of the Credit Mobilier was a fact so notorious to all the world that a Senator must be presumed to be cognizant of it, why did Senators and Representatives wait so many years to be put on inquiry by one of the newspapers of New York? Why did they not institute investigation of their own motion, as it was their duty to have done, if they knew that the Government or the Union Pacific Railroad was being defrauded by the Credit Mobilier? What rationality would there be in the recent investigation, if the facts were already known to Congress?

The committee profess to find in my statement before the committee of the House of Representatives, and in that before this committee, "a contradictory relation of the transactions" between myself and Mr. Ames. I protest against this ungenerous construction of the relation

of the two statements, the first of which was a representation of the facts as they lay in my memory, and the second a correction of the first statement in the light of writings produced.

The committee say of my statement of the 14th of February, that "being in possession of the certificate of stock transferred to him by Ames, *he still ignores the fact of the purchase.*" I cannot but express astonishment that the committee should so misread or misconceive my testimony. I then said expressly, "It results from the admission made of the genuineness of my signature that Mr. Ames's statement as to the investment of the $3,000 is sustained, and that mine is erroneous." And an admission to this effect pervades, either in expression or in implication, the whole of my statement of the 14th of February.

With similar misconception of the relation of my several statements one to another, the committee continue to place in juxtaposition the statements made by me on mere memory, and those made by me in correction of memory, after seeing the receipts, which substituted written papers in place of my recollection.

The critical questions here are questions of memory. But forgetfulness or misrecollection is the ordinary fact in human affairs; recollection is the exception, and not the rule.

Does no memory but mine suffer a fact to drop from it after the lapse of years? Does not the memory often fail in regard to the incidents of every year, month, day, and hour?

In this very report examples occur of forgetfulness even of material incidents. Thus, in one line, the committee speak of the "12th of May," and soon afterward, in the same sentence, the report refers to "*said* 6th May."

In the same report another incident, which had already been stated three times as having occurred in August, 1867, is then described as having occurred in "April, 1867."

Shall it be said that these examples of the uncertainty of the best constituted human memories are of *immaterial* facts? But so also are some of the acts of forgetfulness detected on my part; for it is another quality of the human memory that it does not invariably select for retention the most important facts, and that, with impartial indifference, it fails to retain both important and unimportant facts.

There is another example of *forgetfulness* in this report. It states, as we have seen, "that Mr. Patterson, being a Senator of the United States, in August, 1867, contracted with Oakes Ames, a member of the House of Representatives, for the purchase of thirty shares in the stock of the Credit Mobilier of America, at rates greatly below its esteemed value." Now this statement is erroneous in the most critical point. It forgets (it would not be proper for me to say, misstates or suppresses, in the spirit in which the report accuses me,) it forgets, what the evidence fully proves, and what the committee themselves had expressly found, that the market value of this stock at the time of purchase was *at par*, and was paid for *in cash at par*, and not at "rates greatly below its esteemed value." The consideration, if it have any force at all, and whether it have any or not, is an irregularity of the memory of the committee, which unconsciously and erroneously transports to my case a fact not appertaining to me, but appertaining only to members of the House of Representatives who purchased at a later period, in December or January.

There is another incident in the report which admonishes us to distrust the human memory, and not hastily to assume that an act of forgetfulness is an act of falsehood. It is an example of the proneness of

the mind not to receive permanent impression of facts at the time when they occur, and of the facility with which they may slip from the memory.

On the 14th of February, I spontaneously stated to the committee a fact of which I was previously ignorant, and the existence of which I had therefore denied, namely, the deposit of stock in the Credit Mobilier for my account and benefit with the firm of Morton, Bliss & Co., and which fact also Mr. Morton had been ignorant of until that time.

Now, although the statement of this communication of Mr. Morton was of some importance—quite as much so, at least, as many other matters which figure in these investigations—and although the particular matter did occupy much of the time of the committee, yet it expressly appears in the sequel that "the *memory*" of the members "*was not impressed*" with the very material point of the statement, namely, verification, by letter, of the fact of the deposit of the certificates of Credit Mobilier in question with Morton & Co.; and the reason assigned why the fact did not impress itself on the memory of the committee is, that "the *details* of the certificate itself" were not given at the same time. That is a satisfactory reason; the human memory needs the aid of circumstances, of collateral facts, of visible signs, to support and fortify its action. And the explanation applies to my memory as well as to that of the committee.

This condition or quality of the human memory is illustrated at every page of the testimony taken in these investigations by the two Houses; it is not merely in material things, where misstatement or concealment might have an object, but in a multitude of things absolutely immaterial, that so many of the witnesses err from time to time, when they trust to the unaided memory in reference to dates, amounts, or other details whatsoever of the particular transaction.

I have no personal experience of courts of justice, or of the course of inquiries of fact by testimony elsewhere; it has never happened to me until the present occasion to be called on to testify in person but once, and that before a committee of the Senate; if it were otherwise, I might have learned to trust less confidently to mere memory, and should, perhaps, have abstained from speaking on the subject until after making thorough search for writings or other means of refreshing memory or bringing the facts back to my remembrance.

Nevertheless, and although I testified here in such circumstances of technical inexperience and of disadvantage, it is impossible for me to believe that the committee would have so cruelly misconstrued my unintentional and involuntary errors but for the prevailing morbid state of the public mind and the insensible influence of epidemic malaria of accusation and of misconstruction, which poisoned the atmosphere during the late session of Congress.

Friendly relations with Mr. Ames, produced by our having been brought together in a voyage connected with public service, were the origin and sole inducement of the transactions, which, simple and indifferent enough in themselves, have been exaggerated into political events of magnitude.

When those transactions became the subject of outside commentary for the first time, my own recollection of their character was confirmed by the other party to the transaction, and also by the only third person who possessed any knowledge on the subject, my business friend in New York, Mr. Morton.

I expressed, therefore, the fixed impression on my own mind, in de-

claring that it was stock in the Union Pacific Railroad Company, and not in the Credit Mobilier, which I had purchased of Mr. Ames.

It deserves to be borne in mind that, at the time when I paid to Mr. Ames $3,000 for the purchase, as he now says, of stock in the Credit Mobilier, no certificate or other evidence of ownership passed between us. Mr. Ames expressly testifies: "We did not talk anything about the Credit Mobilier; we did not talk about anything of that sort." When at a subsequent date he delivered to me, in June, cash as dividend on account of stock, the name of the stock not being mentioned—and, in February, proceeds of bonds of the Union Pacific Railroad Company—and, as it seems to me, took receipts from me—it was natural for me to suppose that these payments were in settlement of the transaction, as being the completion of the sale of whatever stocks had been purchased with the three thousand dollars. There is nothing in the fact of large returns within a year to indicate that the stock purchased was Credit Mobilier rather than Union Pacific. Three years, then, elapsed without any transaction between us, except the investment of $4,000 in stock of the Union Pacific Railroad. It was that incident which remained fixed in my mind, and occupied it to such degree as to constitute impression and belief that the stock of the Union Pacific Railroad alone had been the subject of our negotiation.

I promptly yielded to conviction of my error, and publicly declared it after Mr. Ames had produced to the committee the receipts, which showed that he had certainly treated me as the purchaser of stock in both companies, although such had not previously been my understanding of the transaction.

I, not a man of business, and relatively unfamiliar with commercial affairs, had, in the confidence of friendship, bought stock of Mr. Ames, a prosperous man of business, leaving its management to him, as so frequently happens between friends, one of whom is not accustomed to gainful pursuits, while the other is. I supposed that the two acts of purchase were both in one class of stocks. I signed receipts, it seems, with not sufficient attention to their contents to remember them, which receipts either omit to mention the particular stock or confound the two stocks together in one settlement. I cannot admit—I confidently appeal to the conscience of all the many persons who, not business men themselves, have thus confided in a business friend to justify me in denying—that any misrecollection of the actual facts, any want of recollection on the subject, should be charged as willful falsification or suppression of the truth.

There still remained the question whether I had ever become the *actual holder* of stock in the Credit Mobilier. If it were so, I was wholly unconscious of the fact. Remember that, at the time when these declarations were made by me, I had not seen the receipts since they were signed, and had utterly forgotten their existence. Even the production of the receipts did but confirm me in this impression; for the latest in date, that of May 6, 1871, expressly says: "There are *still due* on the transaction thirty shares of stock in the Credit Mobilier of America." Of course the stock had not then been delivered to me.

The committee devoted much time and care to the examination of the various relations of this question, which examination—for what cause or by what process of reasoning it is impossible for me to conceive—seems to have produced on the minds of the committee impressions unfavorable to me. The result of the examination was to elicit conclusive proof that no certificate—even admitting a transfer not consummated to constitute a certificate—ever had been delivered to me or had

come into my possession until at the very time when I voluntarily communicated that fact to the committee. This proof consists in the exhibition by Mr. Morton of a press copy in his possession of a receipt, *in the handwriting of Mr. Ames*, of the following tenor, under date of May 12, 1871, namely:

Received of Oakes Ames two Union Pacific income bonds, (Nos. 1355 and 1356,) for one thousand dollars each, and certificate (No. 338) for thirty shares of stock in the Credit Mobilier of America, for Hon. J. W. Patterson, and to be accounted for to him.
MORTON, BLISS & CO.

Mr. Ames had so entirely forgotten this fact as to state positively that he had delivered the certificate to me in Boston; but my own recollection was confirmed, and his negatived incontrovertibly, by the proofs.

I disclosed to the committee the main fact, and, as it seemed to me, the only one of any possible importance, the instant it came to my knowledge in February.

I respectfully submit that, in the protracted examination of Mr. Morton, Mr. Ames, and myself, regarding the tenor, and the time and place of deposit, of this certificate, in the undue importance which they thus attributed to it, and in the conclusions to my prejudice which they found upon it, the committee are not justified by the facts themselves, and have, unintentionally of course, done me the most serious wrong.

I regret sincerely to be thus compelled, in my own justification, to comment on the report. It is true, as stated by the chairman of the committee in debate on Saturday, the 1st instant, that the committee are not "prosecutors" in this case; but their report is the only formal accusation against me. It embodies charges in a much more impressive form than any allegation of a mere prosecutor; it is the judgment of a committee presented to the Senate, and, as such, it combines prosecution, accusation, and judgment, unless its recommendations be reversed or rejected by the Senate. No justification of my actions, no defense of my honor, is possible at the present stage of the question, save in the form of response to that report. If there had been time and opportunity to debate the subject in the Senate, such debate would have commenced with the resolution proposed by the committee as the immediate subject of action for the Senate. The discussion, from beginning to end, would have been in effect, if not in form, the single question whether that resolution is sustained by the reasoning of the committee and is justified by the facts in their report. We have a pregnant example of this before us in the pending debate regarding the case of Senator Caldwell; which is, at the outset, presentation of report by the chairman of the Committee of Elections and Privileges, with oral reasons in its support by him and other Senators, contradiction of those reasons by Senators in opposition, and, finally, a responsive argument by the chairman of the committee.

I reiterate, therefore, earnest entreaty to the members of the committee not to take umbrage because of my doing that which is of the very necessity of defense—that is, endeavoring to show the fallacy of the reasonings of the report, deducing from it arguments in my vindication; in a word, saying in this memorial that which it would be competent, proper, and even indispensably necessary for me or any other person to say, if debating the resolution of the committee before the Senate.

I would fain believe, as once before suggested by me, that the indifference to the subject expressed by the chairman of the committee on two occasions in the Senate—that is, on the 1st and 3d instant—is indicative of a sentiment of regretfulness at the severity of the report, so different from the action of the two committees of the House of Repre-

sentatives, and of the House itself in reference to members of Congress who had purchased stock of the Credit Mobilier from Mr. Ames, and so much in contrast with the action of the House in reference to Mr. Ames himself.

It has been my principal aim in what precedes to discuss the particular points of the evidence taken by the committee of the Senate, and of their reasoning thereon, as applied to me individually, with only occasional passing allusion to the general subject, as developed in this report and in the two reports made to the House of Representatives.

But reflection on the whole subject, in its more general relations, suggests some important considerations confirmatory of my perfect innocence in the transactions inculpated by the committee.

The times in which we live are distinguished by the exhibition on all sides of a spirit of industrial and commercial enterprise, as particularly manifested in the advanced state of agriculture, mining, and manufacture, and especially of the means of commercial intercourse and transportation, both by land and sea. We are the witnesses to a most imposing spectacle of large ships, constructed of iron and moved by steam, which throng, as it were, both oceans. Not less imposing on land is the spectacle of canals and railways, which place in such ready communication the remotest parts of the earth. Add to this the marvels of telegraphy, and especially of submarine telegraphy.

Of all these prodigious enterprises the greatest exist in or in connection with the United States. Nothing but the immensity of the amount of commercial and intellectual intercourse between the United States and Europe could have led to the laying of the three or four great lines of telegraphic cable which traverse the abysses of the Atlantic Ocean, and are occupied with the constant transmission of thought from the shores of America to those of England, France, Germany, Italy, and Spain. Independently of this, the modern world has borne witness to three gigantic works of construction, the canal of Suez, the tunnel of the Col de Frejus, and the Union and Central Pacific Railroads, the noblest of which is the particular work of the United States.

When the annexion of California to the United States, with possession of Oregon, and of the vast interior regions of North America, had opened our eyes to the perception of the fact that we had become a grand continental power, second as such only to Russia, conceptions of some means of ready communication between the distant western and eastern extremities of the republic began to germinate in the minds of the statesmen of the United States. For many years nothing practical seems to have resulted from those ideas. At length, however, when the late civil war, by the great forces of land and sea which it called into action, and by the enormous pecuniary resources which it was found we could command, had communicated to us a vivid impression of our national strength, it was then determined by Congress to lose no time in doing what had so long rested only in project—that is, the establishment of a line of uninterrupted railway communication from the city of New York to the city of San Francisco.

Congress might well have done this work itself; perhaps it would have been better for the country if it had done so. The addition of a few millions more or less to the aggregate thousands of millions of the existing war debt would have been scarcely felt among the actual burdens of the country, and would not have materially affected our credit in the money markets of Europe.

But Congress decided otherwise, and chose to invite private enter-

prise to undertake this great work, under the auspices and with the aid of the Government.

To this end the Government proposed to aid the undertaking by granting to the corporation in fee a certain portion of the public domain along the line of its construction, and also by loaning to it a defined amount of the bonds of the Government.

Who on these premises and with such aid would undertake the work? No poor man could do it. What rich man would undertake it, with perception of unknown and inappreciable financial and mechanical obstacles in his path, with imminent peril of losing his whole fortune in the experiment, and with certainty that, if he were successful, and should reach such profits on the enterprise as its magnitude and the risks attending it required in order to constitute just compensation to him as a capitalist, the beagles of envy and jealousy would not fail to fasten on his heels and dog him persistently at every step, and especially in the Congress of the United States?

Such a man was found—a great capitalist, the son of his own works—a man of resolution and courage adequate to grapple with such an herculean task. Not a man of refined sensibilities, it may be; not a man of elaborate speech; not a man of nice forms in action; not a book man; a man of deeds rather than words; a great *doer* in the business of life. Of such stamp are they who win victories in the field of battle, who accomplish mighty undertakings in civil life, and who, age after age, change the face of the world by their hardy management of, or their resistance to, the material forces of nature.

Such a man is Oakes Ames, who dared to take this great enterprise on his shoulders, and to march under its burden unwavering, like Samson with the gates of Gaza.

But how should this work be done? If we look back on it, in the light of our present knowledge, to condemn, let us do the same in order to approve.

It is fully in evidence, in that most searching inquiry instituted by the committee of the House of which Mr. Wilson was chairman, that, at the time when the Union Pacific Railroad was undertaken, few persons had faith in the profitableness of the proposed undertaking. It required robust intellect and indomitable will to enable any person at that day to seize hold of the enterprise and push it forward to successful consummation.

One other great conclusion is satisfactorily established by the report of that committee—that the work could not have been done by the corporation of itself, as such, but only by the means of a special construction company or construction companies, whether inside or outside of the Union Pacific Railroad itself. That report abounds with evidence on this point, which it would be out of place to repeat here at length.

Impelled by these considerations, the undertakers acquired possession of a corporation entitled the Credit Mobilier of America, and made that serve as their construction company.

The Government had placed in the hands of the Union Pacific Railroad Company specific means with which to defray the expenses of the work, to wit, bonds and land-grants, and it authorized the company to contract additional indebtedness in its own name to the same end.

Was it unlawful for the railroad company to contract to deliver all these means of construction and equipment to a construction company? That is rashly assumed by those who blame me and others for the possession, real or imputed, of any stock in the Credit Mobilier. But such a transaction was not deemed to be unlawful then, and since that time

has been carefully considered, and, in effect, under certain conditions of qualification, approved by Congress.

In the act to incorporate the Texas Pacific Railroad Company, passed March 3, 1871, it is enacted as follows:

SEC. 20. That it shall not be lawful for any of the directors, either in their individual capacity or as members of an incorporated or joint-stock company, to make any contracts or agreements with the said Texas Pacific Railroad Company for the construction, equipment, or running of its road, or to have any interest therein; and all such contracts or agreements are hereby declared null and void, and all money or property received under such contracts or agreements may be recovered back for the benefit of the company by any stockholder.

What is prohibited here is a contract between the directors of the Texas Pacific Railroad Company and the same persons as directors of the attendant construction company, as in the case of the Credit Mobilier.

Was such a contract invalid by any existing general law? That is one of the questions to be tried in the suit against the Union Pacific Railroad *and others*, provided for by the late act of Congress.

But so late as the year 1871 it could not have been the opinion of Congress that such a contract was unlawful by any general law; for, if so, there would have been no occasion, by special enactment, to declare unlawful the making of such a contract by the Texas Pacific Railroad Company.

Moreover, the expediency, as well as the legality, of action by construction companies is recognized in the supplementary act of May 2, 1872, which, while regulating the issue of "construction and land bonds" by said company, enacts as follows:

The aforesaid bonds and the authorized capital stock, or the proceeds thereof, shall be applied only for the purpose of securing the construction, operation, and equipment of the contemplated railroad line, under lawful contracts with such parties, and on such terms and conditions, as said company may deem needful; and for the further purpose of purchase, consolidation, completion, equipment, and operating of the other roads, as contemplated by said act and specified therein, being a part of the aforesaid railroad line, and for the expenses necessary and incident to the works authorized thereby.

In view of all this, the least which can be said is, that the storm of reprobation aroused on the subject of the Credit Mobilier is ill-considered, precipitate, and destitute of justice and reason.

The pending discussion forcibly reminds me of that incident in the history of England, when Parliament lost control of itself for a while under the influence of popular clamor against the alleged misdeeds of Clive, Hastings, and Impey in India, and was brought to its senses by the eloquent improvisation of Erskine, who demanded that the government should awake to the conscience and the logic of the situation; that it should either restore India to its native masters, or cease to persecute the individual British conquerors of India.

So, in the present matter, if Congress would have the Pacific railroads cease to exist, if they desire to obliterate that magnificent work from the face of the earth, let them say so; but if not, the country must take the work at its cost; remembering that deserts are not converted into flourishing fields, or mountains tunneled and leveled, by *dilettante* speeches, or with gloved hands, or with superfine sensibilities, but by men of the temper which God has marked out for such tasks—of the temper which alone could be capable of subjugating, of civilizing, of reducing to culture the forests and the deserts which constituted the original inheritance of the people of the United States.

But, says the clamorous voice of what is so absurdly called public opinion—and which is nothing but the noisy chirrup of the grasshoppers

in the field where the silent cattle are gathering their nutriment for the joy of the farmer—the parties concerned in the Credit Mobilier made prodigious gains at the expense of the United States.

The statement is unfounded and the conclusion still more so.

If there was such promise of profit in this enterprise, why did not Congress undertake it of itself, and reap that profit in alleviation of the taxations of the people of the United States? Why did not other capitalists undertake the enterprise? It was competent for them, if they had seen fit, to anticipate Mr. Ames and his associates, and to have taken exclusive possession of the enterprise by subscribing for the stock.

Nay, more: Mr. Ames and his associates did not endeavor to monopolize the stock; on the contary, he manifested the greatest anxiety to obtain assistance from others, to which end he earnestly solicited their participation. The statement that he makes on the subject, as contained in the Senate report, completely negatives the current fallacy which attributes to Mr. Ames and his associates the spirit of grasping monopoly and extravagant profit. He entreated hundreds to join him, who refused to do so on any terms. He obtained the participation of many others, such as Mr. Alley and Mr. Grimes, by contracting in writing to take back their subscription if they should require it, treating it as a loan at ten per cent. interest with guarantee against loss. He had faith in the enterprise; his embarrassment was to satisfy Congress or anybody else, in Congress or out of it, that the possible profits of the enterprise were equal to its hazards.

In fact, with all his wealth and courage, Mr. Ames did sink under the enterprise, finding himself compelled to suspend payment for a while, in consequence of some unfriendly legislation on the part of Congress, which was always one of the ordinary perils of the undertaking.

Now, what profit should have recompensed the undertakers of an enterprise of this magnitude? It would be ridiculous to suppose that the ordinary profits of banking, manufacture, or commerce would be a satisfactory inducement to impel any person possessed of a capital of five or ten millions of dollars to stake it all in a railroad, subject to the caprices of Congress.

What is the profit made by the great railroad undertakers, such as Cornelius Vanderbilt, Thomas A. Scott, J. Edgar Thompson, and Horace F. Clark, who work with charters derived from States? Would any of those persons be content with ordinary interest, as the only return for the investment of a large fortune in an apparently hazardous railroad enterprise? We know they would not; and, in order to be just, we must judge by the same standard the parties who constructed the Union Pacific Railroad by means of the Credit Mobilier.

The discussions on this subject are assuming extraordinary profits, because of the large return in the first years of the undertaking; but this line of reasoning overlooks the fact that the value of the stock of the Credit Mobilier, as an investment, disappeared when the construction of the road was completed.

Well, therefore, might impartial lookers-on observe with amazement the intense agitation which prevailed during the last session of Congress over the fact of stock in the company, to the paltry amount of $16,000, being supposed to be held among ten members of Congress.

I appeal to the conscience of Senators to say whether, in comparison with other incidents within their knowledge, of the disappearance of hundreds of thousands of dollars in the lobbies of Congress, on more than one occasion, there is not strange exaggeration in reference to the present transaction.

The two houses of Congress have been occupied during the entire session with investigation, agitation, and discussion on the subject of these trivial investments, to such degree that Congress has hardly done anything else, except to pass the various appropriation bills, leaving unacted on matters far more important than any possible relation of the Credit Mobilier.

How has this happened? The explanation is plain to the eyes of all men.

During the late presidential election the clamor of the hour, raised by the opponents of the republican party, was pretended corruption in Federal affairs. The loudest notes of that cry were but attempted diversion from the public censure of municipal corruptions in the city of New York, and the relation of those corruptions to the two great parties which divide the country. Of course, in a presidential election, the chief point of aim for attack was the President of the United States, and incidentally to that were his leading supporters in Congress. He passed unscathed through that tempest of calumniation. What is more to the point, he was not frightened. But others were. And thus the opponents of the administration saw before them a tempting field of action. They had but to continue the cry of corruption, and all the more loudly in view of the little there was left of the subject-matter. They had found a *raw* in the public mind, and they did not fail to apply the point of the lash to that spot. The interests and influences, defeated by the re-election of the President, continued agitation with such capital as they had, which was nothing but one hundred and sixty shares of the Credit Mobilier. And they it is who have cast the baleful shadow of their disappointment and resentment like a sunset eclipse over the expiring months of the last Congress.

And what a wild rage of self-destruction and of self-dishonor has, during those months, occupied the halls of Congress; as if, in the hasty eagerness of premature self-defense on the one hand, and the passionate cry of corruption on the other, members were determined to commit *hari-kari* for the particular gratification of their defeated political enemies of the conventions of Cincinnati and Baltimore!

Never in the history of the United States or of Europe did it occur that causes so weak produced agitation so intense in the higher circles of the Government. If it were a great cataclysm of corruption and fraud which had overwhelmed us, like the South Sea Bubble in England or the Mississippi Bubble in France, there might be something to contemplate with sentiments of respect for the public weal, and of consequent severity of inquiry into imputed or suspected corruption on the part of men in high station—men hitherto of blameless lives, of unstained honor, and some of them representatives of the semi-sovereign States of the Union. But no, it is nothing of that kind. It is only a *bagatelle* of stock of the Credit Mobilier, utterly insignificant as inducement to votes adverse to the public interest, which was not purchased or owned with any such thought, and with no proof existing that the fact had prejudicially affected any measure before Congress.

And yet for such a cause as this each House of Congress has given itself up to the functions of a tribunal of inquisition, exaggerating the most innocent or indifferent acts into crimes, disseminating mutual distrust and ill-will, severing long-cherished friendships, and laboring to find in members subjects of inculpation, which, if found, would serve no purpose but to discredit and disgrace the institutions and the people of the United States.

I say, the people of the United States; for the Senators and Repre-

sentatives are the elected agents of the people; their virtues and their vices are the common stock of the nation; and if the Senators and Representatives are higher than the people, so much the more are the latter depressed in estimation by the errors of the former.

What good has come of all this? It tends, indeed, to show that the true character of the Congress of the United States is exceptionally exalted and pure, when the ownership of a few shares of Credit Mobilier by some of the members so horrifies their colleagues of the Senate and the House. But when, as in my case, forgetfulness of incidents of the transaction, and this forgetfulness justified by the correspondent forgetfulness of others—or the failure, rather, to retain in the mind a clear recollection of the distinction between two transactions connected in their nature and blended together in fact—when such an error of memory is made to assume the proportions of a false statement, and is unjustly condemned as such, it may well be doubted whether inquiry so resulting can serve to promote public morality either in Congress or in the body of the people of the United States.

Most assuredly no trustworthy precedent is created for the admonition of others, no useful example is set, in a report which selects me alone for condemnation, and which is made at so late a day of my senatorial services that it cannot be acted on, and is therefore susceptible of being regarded in all future time as an act of partial and personal discrimination to my prejudice.

It is not by such a spasmodic proceeding as the censure or the expulsion of a member that the character and the action of Congress can be placed above reproach. But the means are easy if Congress really desires the end. It needs only to pass a law visiting with the severest penalties of champerty and maintenance all agency or attorneyship about Congress or the Departments founded on contracts of contingent compensation; to drive away from the lobbies and the halls of Congress all adventurers trading on their pretended influence with Senators and Representatives; and to establish a body of parliamentary solicitors, subject to the discipline of Congress, in the same way that counselors and attorneys are subject to the supervision of the courts before which they are permitted to plead. Do this, and you will cut up by the roots all corruption and all facility of corruption in legislation, while you provide to meet a public necessity for which there is no legitimate provision now—that is, the honest and open advocacy of private interests which may require legislative consideration.

As to the present inquiry, let the Senate look the facts frankly in the face, to see that the effect of the report, when considered alongside of the reports made to the House, and of the action of the latter, is to make me the single victim of proceedings in Congress instituted *professedly* to meet accusations of "the public press," emanating from an act of larceny or burglary, and pursued under the whip and spur of that same public press.

Congress, in the morbid state of mind produced by these investigations, has seemed to suppose that sensational paragraphs in the newspapers, which are pleasant reading to-day and are forgotten to-morrow, constitute the judgment of the people of the United States; and so it seemed to have been thought that Congress must undertake the great process of self-purgation in the ingenious form of suicidal self-immolation. But the excitement was here, and not among the people of the United States. The moment Congress adjourns, re-action commences in favor of the martyrs to this superfluous agitation in Congress. Gentlemen the most inculpated are received with triumph when they return to

their respective States. The administration suffers no prejudice, either from the panic terror of the accused, or the equally panic terror of the sincere among the accusers and triers.

Thus, we were told that the investigations regarding the Credit Mobilier were to affect injuriously and perhaps defeat the republican party in my own State of New Hampshire, when the contrary effect is indicated by the electoral returns from that State. And indications of similar re-action have occurred in other States.

In conclusion, let me say that I have reviewed the report with anxious purpose to discipline myself to a candid examination of its contents, discharging my mind of all natural feeling of resentfulness on a view of the severe conclusions of the committee, penetrating into the recesses of my own conscience, to judge my own actions and motives without reserve or mercy—in a word, discussing the case impartially and without bias, favor, or affection, as if it were a question of history relating to some third person of another age or of a foreign country; and on such a retrospect of the facts, I do solemnly appeal from the condemnatory opinion of the committee to the better judgment of the Senate itself, of my countrymen, and of my God.

J. W. PATTERSON.

CREDIT MOBILIER.

THURSDAY, *February* 13, 1873.

The committee met at 10 a. m.

General John A. Logan made his appearance in the committee-room at 10.20 a. m., and was interrogated by the chairman as follows:

By the CHAIRMAN, (Mr. Morrill, of Maine:)

Question. General Logan, the testimony taken before the committee of the House of Representatives, forwarded to the Senate, and by the Senate referred to this committee, reveals certain transactions between you and Oakes Ames to which I invite your attention. They are in substance that, in 1867, you had agreed to purchase ten shares of the Credit Mobilier stock of Mr. Ames; that he had subsequently made you certain payments thereon as dividends, and that afterward said agreement had been rescinded and the dividends repaid. The testimony of Mr. Ames to which I refer is at hand, if you would like to refer to it.

Answer. I do not, sir; I have read the testimony in the papers. If you wish me to make a statement of the transaction, I could do so; but if you enter into an examination of witnesses, as a matter of course I would reserve all the rights I thought proper. If it is however merely to ask me in reference to it, I will say this: I have nothing to add to or to take from anything that I said before the committee in the House. The evidence of Mr. Ames is substantially correct. I see that the chairman has a misapprehension, however, of the testimony, and it is this: The chairman understands that these dividends were paid to me, and that I paid them back. The testimony I do not think will bear out that impression. They were not paid to me at all. Mr. Ames's testimony is not full on that point, but if you will refer to mine, you will find that on the 20th day of June, after I agreed, or, as lawyers would say, contracted, to purchase, no delivery being made at all, he made up a written statement to me, showing that these dividends were due on the stock; and in covering the thousand dollars due for the ten shares, it left a balance of $329, for which he gave me a check.

Mr. SCOTT. I presume that is what the chairman referred to as the dividend.

General LOGAN. Well, gentlemen, that is correct. I have nothing to say about it. The statement of Mr. Ames is substantially true.

The CHAIRMAN. I do not make any mistake. It was that amount of money—$329—paid to you.

General LOGAN. Yes, sir; by check.

Q. And paid back.

A. Yes, sir; that is correct. I have never read all the evidence, and have never read my own evidence except as in the newspapers.

The CHAIRMAN. You will see, Senator, that this is an invitation to you to afford you an opportunity to make such explanation about this testimony as seemed to you advisable. I understand you to say that

you are content with the statement you have already made before the House committee.

A. I do not know of anything that I can add to it. I do not know that I gave my reasons for returning the money when I gave that testimony, but I think I did. I do not remember.

Mr. WRIGHT. The reasons are stated in your testimony.

By Mr. STEVENSON:

Q. When was it, general, that Mr. Ames first applied to you in regard to this stock? Did you have more than one conversation with him before you agreed to take it?

A. Well, I think I did, governor.

Q. This testimony does not fix the date. Will you, as near as you remember, fix the date when Mr. Ames first approached you on the subject; and what passed between you at that conversation?

A. If the committee is examining me with a view of introducing any further testimony, I should prefer to hear the testimony against me before I make further statements than I have. I will say this, however, in answer to that question: that we had conversations, but the time I do not remember—some time during that session prior to the contract for purchase, but at what date I cannot say.

Q. You had had prior conversations with him before you contracted.

A. Yes, sir. But when I say prior conversations, I do not mean prior conversations in reference to this thing alone.

Q. The only conversations my question alluded to were about the time when he first approached you on the subject of taking the stock.

A. That I could not say.

Q. Did you have more than one prior to the taking of it?

A. We did, I think. One is mentioned in my testimony before. We had a conversation before that—before I agreed to buy—in reference to stocks of different kinds, and in reference to this stock, (speaking generally of them,) in which he recommended this as a good investment; but what the conversation was particularly I cannot say, because at that time I did not think anything about it. I will say that I am ready at the present time to answer any questions.

The CHAIRMAN. The promptitude with which you respond shows that.

Mr. SCOTT. I move that the question whether General Logan shall be recalled for further examination be postponed for the present, and that we proceed with the examination of Senator Harlan, (then present in committee-room.)

The motion was seconded by Mr. Stevenson, and was carried.

THURSDAY, *February* 13, 1873.

JAMES HARLAN examined by the chairman:

Question. Mr. Harlan, I am directed by the committee to call your attention to testimony taken before the committee of the House of Representatives, forwarded to the Senate, and referred to us. It is the testimony of Thomas C. Durant, and is very brief. I will have it read in your hearing, and we will then hear what you have to say about it.

(Mr. Stockton read from the testimony of Mr. Durant as follows:

"By Mr. NIBLACK:

"Q. State whether the Union Pacific Railroad, or men connected with that enterprise, were called upon to assist in the senatorial election, in 1866, in the State of Iowa.

"A. I do not recollect. I did assist, myself. I had a large interest in Iowa, personally, and during the canvass I assisted.

"Q. It has been stated to me that you gave a check for $10,000 to assist in that election?

"A. No, sir; I did not. I gave two checks of $5,000 each, to assist in that election.

"Q. Can you explain the history of these checks, and state for what purpose they were given?

"A. For the purpose of securing the election.

"Q. Whose election?

"A. Mr. Harlan's; for the purpose of securing the influence of some newspapers. I do not know how it was applied. Moses H. Grinnell subscribed in my name, during my absence, to the general republican committee, $5,000, to aid in Grant's election. That seemed to be pretty well past, to object when I returned, and I paid the subscription.

"Q. It has been suggested to me, also, that it had been urged upon you very strongly to give Senator Carpenter an interest for congressional influence; do you know anything about that?

"A. No, sir; I do not recollect. I am sure I did not do it. Mr. Harlan had been an old personal friend. My personal intercourse with him had continued fifteen or twenty years. He lived on a rival line of railroad through Iowa to one in which I had long been interested, to be sure, but he understood the wants of the State, and besides he had been in Washington long enough to know how to care for the interests of the State here.

"Q. He was at that time Secretary of the Interior?

"A. I believe so; he was not in Congress at that time.")

The CHAIRMAN. It is submitted to you, Mr. Harlan, with the view of inviting your attention to it before the committee, for any statements you may see fit to make in regard to it without interrogating you particularly.

A. There is nothing that I care about stating in reference to it, unless some members of the committee desire me so to do.

Q. We are to understand, then, that that statement, so far as you are disposed to regard it, is complete in itself?

A. No. There are facts connected with the election in Iowa, and connected with that transaction to which the witness alludes, which are not fully stated, but there is nothing that I care about stating in relation to it, unless the committee desire something in addition.

Mr. STEVENSON. Mr. Chairman, I should like to know whether Mr. Harlan is to be sworn, or whether we shall take his statement, or let the matter rest as it is. I desire to ask him a question.

Mr. HARLAN. It is totally immaterial to me.

Mr. STEVENSON (to Mr. Harlan.) We are talking about a matter of proceeding only, sir.

The CHAIRMAN. I will hear any motion that the Senator (Mr. Stevenson) chooses to make.

Mr. STEVENSON. I desire to ask Mr. Harlan a question, and the point is, shall he be sworn as a witness or not; what is the pleasure of the committee on that subject?

Mr. SCOTT. Before reaching that question I would desire to state to Senator Harlan my impression of the situation in which it would be left stopping here; that is, that his statement, now that he has no desire to state anything further, would leave this testimony to be acted upon by the committee just as it now stands, and to be reported upon by the Senate with whatever impressions it makes upon them, without any ex-

planation from him. That is the view of the manner in which it would be left.

Mr. STEVENSON (to Mr. Harlan.) I wish to ask you, Senator, whether you received either of those checks, and whether you indorsed either of them, and my question is based upon what I see in the testimony.

Mr. SCOTT. Before that is answered, I desire to say that if we go further I shall consider Mr. Harlan as a witness before us, and that he ought to have the privilege of being sworn, to verify his statement, before we proceed further.

Mr. STEVENSON. That was what I suggested before.

Mr. HARLAN. If the chairman desires me to make a statement, I think the rule ought to be uniform; if any Senator be sworn, all ought to be; if any testify on their honor as Senators, I think the rule ought to affect all. It is not material to me. I am willing to testify either way, and to tell anything I know about the transaction; and if any Senator desires any information, I shall be glad to give it. I am perfectly willing to go on and tell anything I know, either informally or under oath, as the committee prefer.

The CHAIRMAN. We understand that it is the desire of the committee that the oath be proposed to you.

Mr. Harlan was here sworn by the chairman, and his examination was proceeded with as follows:

By Mr. STEVENSON:

Q The question, Mr. Harlan, that I propose is this: Mr. Durant states that he sent two checks for $5,000 each. Did you receive those checks, or either of them; were they payable to your order, and by you indorsed?—Answer. Well, to give the whole transaction, some time in the spring of 1865, I think, Dr. Durant asked me if we would need any funds in Iowa for election purposes. I told him that I did not know; I supposed likely our friends would. He inquired of me whether I had any personal interest in the results in the State. I told him I did feel a party interest and might feel a personal interest. He observed that if we needed any help he desired to help. I told him very well; that I might remind him of it. After that he was reminded of the subject, either by myself or by a friend, of what he had said, and the contribution was made, which I suppose came from him. I have no distinct memory about any but one check. There was one check signed by a Mr. Crane, whom I understand to be the confidential business man of Mr. Durant, payable to my order, which was inclosed to me in a letter. I do not remember about the other check. I presume, however, it was forwarded, and probably paid to my order. If so, I doubtless indorsed it. Perhaps I ought to go on and state what I learned about this transaction afterward. In the spring of 1868, I think it was—it was after I had returned to the Senate—being in the hall of the House, Mr. Alley, then a member of the House, I think, asked me if the Union Pacific Railroad had made any advances for election purposes in Iowa. I told him no, I thought not. He then stated that they were attempting to make a settlement with Dr. Durant, and that he had brought in a large bill to pay expenses connected with the road, amounting to some hundreds of thousands of dollars, intimating that a part of those expenses had been incurred by him in aiding in elections, naming one election in New York, another in New Jersey, and a third one in some of the New England States—I do not remember which—and in Iowa. I observed to him that he might take it for granted that so far as I was concerned the doctor had made advances for election purposes there, but that I

thought not out of the funds of the company; that if he had made any advances out of their funds for election purposes in Iowa in any way connected with my name or interest, I should feel it to be my duty to have it restored; that I supposed he had a right to use his own money for election purposes, but not the money of the stockholders of the company. I asked him who was the business man of the company; who had control of the books and exhibits. He told me that Mr. Oakes Ames had as much to do with it as any one else. I then called on him—I think I called on him the next day—and recited to him what Mr. Alley had said to me and also the statement that I had made to Mr. Alley, that if any funds of the company had been advanced by Dr. Durant for election purposes in Iowa in any way connected with my interest, I should feel it to be a duty to restore it, and had brought with me my written obligation to do so, so soon as he could ascertain the amount. He observed that he did not believe Durant had advanced any money for election purposes anywhere. He thought it was probably a fixed-up statement, and that he supposed Mr. Alley was trying to get at the facts, but he, however, would, at my request, try and ascertain whether anything had been advanced that belonged to the company for election purposes in Iowa; that he would not take my obligation then. Afterward I met him at the Arlington, and the subject was alluded to either by him or me in the first instance; I do not remember which. I made the inquiry again whether he had learned anything about this matter. He said that he had seen nothing on the books of the company, and had not learned that anything had been paid in any way for me, or for electioneering purposes, where I was interested personally. After that I saw a statement published in a paper, in Dubuque, Iowa—the Dubuque Herald, I think it was—about to this effect: that it was averred by a distinguished ex-Senator of the United States that the Union Pacific Railroad Company had advanced $10,000 to secure the election of Mr. Harlan over Mr. Kirkwood, in Iowa, in 1866, and that the check was on file among the papers of the company. I clipped the article from the paper, wrote a note to Dr. Durant, inclosing it to him, and asked him to state what the facts were. He gave me a statement (which I think I have with me) substantially in harmony with his testimony. (Producing document.) This I believe is the letter from Durant, in reply. I do not know whether the committee wish to see it or not. I care nothing about it. He said in this letter that nothing had been advanced by the Union Pacific Railroad Company, as the books would show, and advised me to call on them for a statement.

Q. I suppose it is optional with you whether you put this in evidence. If you do so, I will have it read.

A. I care nothing about it. It may be as well to put it in, as I have alluded to it.

(The letter is as follows:)

"NEW YORK, *December* 19, 1871.

"DEAR SIR: I have your favor inclosing newspaper-paragraph in which it is claimed that, about the time of your re-election to the United States Senate, the Union Pacific Railroad Company gave you a check for $10,000, and that said check or draft was in possession of the railroad company, and could be produced.

"I should scarcely think it worth your time to refute this, or that you would deem the idle charges of a newspaper correspondent on the eve of a political contest of sufficient importance to be noticed at all. Should you think otherwise, why not call upon the company to deny it? At the

time referred to I was the vice-president and acting manager of the affairs of the company, and know that no moneys were paid you by them, and that they consequently can have no such draft or check in their possession.

"I presume it would give the present officers of the company pleasure to examine the checks and drafts, (which are now at the office of the company, in Boston,) and testify to the fact.

"Trusting such charges will in no way affect your prospects for re-election, I am yours, respectfully,

"THOS. C. DURANT.

"Hon. J. HARLAN."

The WITNESS. I afterward saw Dr. Durant, and told him that I was particular to know what the facts were about that matter, as I had promised Mr. Ames to restore any money that might have been advanced by the company, if any; that I could understand how a private individual could use his own money for election purposes or any other purposes, but I could not understand how a man occupying a fiduciary relation to other parties could use their money, without their consent, for such uses. I wanted to know distinctly whether the money he had advanced was his own, or whether it belonged to the company or the stockholders. He said that not a cent of it belonged to them, and no account had ever been made of it; that it was his private funds, which he had used in this instance, as he had done frequently in other cases where he felt a personal interest in the result of the elections.

Q. When was this talk with Durant to which you refer?

A. This last conversation?

Q. No, sir; the conversation to which you refer in 1865.

A. It was in the early part of 1865. I can't give you the dates. It was a good while ago.

Q. What was the date of the contribution of the money?

A. I am unable to give that also.

Q. The year?

A. It was in 1865. But I suppose the point that would naturally arise would be whether it was contributed before the legislative election in Iowa in October.

Q. Was the election then pending in 1865?

A. Well, yes. We elected a general assembly in the State of Iowa in October, I think, in 1865; that is, we elected the house and half of the senate.

Q. Were you a member of Congress at that time?

A. I was not at the time a member of Congress.

By Mr. SCOTT:

Q. Do we understand you that these checks were received by you before the October election?

A. I do not remember whether the checks were received before or not. The conversation that we had originally, in which he suggested his willingness and desire to help, occurred in the early part of the spring, I think. I went out of the Senate, practically of course, on the adjournment—the 4th of March. I went into the Interior Department on the 15th of May following.

By the CHAIRMAN:

Q. Eighteen hundred and sixty-five?

A. Eighteen hundred and sixty-five. It was during that period, some time when you had the conversation on the subject of the Iowa election.

I do not remember the date. It did not make very much impression on my mind until afterward, when my friends stated that they needed some funds, and inquired of me if I had any friends who would help. I told them that there were some who had suggested a willingness to assist, and Dr. Durant was reminded of his previous suggestion in that connection.

Q. And that, you think, was during the canvass of 1865?

A. Yes, sir; it was during the year 1865, but what date I do not remember now. I do not remember whether he sent his check before the October election or afterward. It was intended to cover expenses, in part, which my friends said they had incurred.

Q. During that canvass?

A. During the canvass, and which they expected to incur, I suppose, afterward. If it is desirable for the committee to go into that, I can, perhaps, give some explanation of how funds have been used in the State preceding and at the time of senatorial elections, although I never was present when I was interested myself, until last year, when there was any contest.

By Mr. STEVENSON:

Q. Were these two checks received together, or do you remember that?

A. No; they were not received together, and I have no distinct recollection of the one check, although I do not call in question at all that it came.

Q. You say it was signed by a man named Crane. Was his the only name to the check?

A. I think so.

Q. Did he sign it in an official or individual capacity?

A. O, in an individual capacity, as my memory serves me. The impression made on my mind was that he was acting as Durant's private business man. It was a check drawn on some bank in New York. I do not remember now the name of the bank.

Q. There was nothing in the signature to designate that he was acting for any one; just Crane's simple check?

A. Crane, with the initials of his name, is my memory, and I have forgotten them.

Q. Do you remember when you received that check?

A. I do not remember. I wish I could. It was during the summer or autumn of 1865, however.

Q. Have you a distinct remembrance of whether it was before the election?

A. I have not.

Q. Did you send the check on for collection?

A. That first check, the one signed by Crane, which I think was the first one, I gave to a friend to have cashed.

Q. Have you any means of identifying the time when it was cashed? Did you have it cashed in Iowa?

A. No; it was cashed in New York. I think it is possible that I might, by looking over my letters and files, tell. There may possibly be some allusion to it in some letter, although I have not thought of that until your question was propounded. I keep files of nearly all of my letters and press-copies of those I send out, and by searching those I might find some allusion to this matter. That would be my only means of ascertaining.

Q. After you inclosed Mr. Durant this slip, calling his attention to

it, and received that letter, did he ever have any other conversation with you in regard to it?

A. Yes, sir; I had a conversation with him afterward, explaining why I was particular about knowing whether that contribution was made from his private funds or whether it was made from the funds of the company.

Q. Well, sir, what did he say?

A. Well, he said it was his private funds, his own money, that he contributed, and never brought in any account for at any time.

By the CHAIRMAN:

Q. Have you stated the amount of the Crane draft?

A. I think it was $5,000.

Q. There was one other of $5,000?

A. Yes, sir; as Mr. Durant says. And I think it is altogether likely it was so. I do not remember distinctly about that draft. But he said in his testimony, and he said to me, that there was another $5,000 that was made part payable to me, and I suppose it was so, and no doubt I indorsed it, if it was.

By Mr. SCOTT:

Q. Whether received before or after the October election, as Mr. Durant states, it was contributed by him for the purpose of assisting in securing your election?

A. O, yes. It was contributed by him for election purposes in Iowa, in pursuance of the conversation with me, in which he asked me whether we would need any funds, and stated that he desired to assist if we did.

By the CHAIRMAN:

Q. What had been your relation with Mr. Durant prior to that time?

A. I had known him a long time. He had been engaged in building railroads in Iowa; that is, he was largely interested, as I understood, in what we know there as the Rock Island Road, and what is now called the Iowa Branch of the Northwestern Road. He had lived in the State a long time—that is, spent a large part of his time there—and I had become quite well acquainted with him in connection with his sojourn there, and had met him frequently here.

Q. Was that your region of the State?

A. His headquarters were at my former home. I resided a good many years at Iowa City, and that was his headquarters while he was in the State.

Q. How was it that you became acquainted with Durant in your State?

A. O, well, I think it must have been some time between 1856 and 1860. I do not remember ever to have met him there until the land-grant of 1856, making the land-grant to Iowa for four roads across the State. The grants were made to the State; the legislature gave the right to build the roads to companies, and he was connected with one or two of those companies.

Q. And connected with building the roads?

A. Connected with building one of the roads; I am not sure whether he was connected with building the other or not; I think he was.

Q. Was he actively engaged in these roads or simply furnishing means?

A. O, well, he was there a great deal. I never inquired into the minutiæ of his interest in the roads; he seemed to be very deeply in-

terested in them. I think he had a brother there also connected with the business.

Q. Was it there that you formed your acquaintance with him?

A. I first became acquainted with him there.

Q. That acquaintance kept up until 1865?

A. Yes, sir; until the present time, I may say.

Q. Had you had any business relations with him prior to that time?

A. No, sir, none whatever.

Q. He spoke of having an interest in your election. He says, "I did assist myself. I had a large interest in Iowa, personally, and during the canvas I assisted."

Q. What is your understanding of that? What does he mean by saying that?

A. It would be difficult for one witness to explain what another meant, of course, by reading the testimony; but I suppose that he alluded to the fact of his local interest in the State, and the fact that I had been somewhat active in securing the original land grant, and also in shaping legisation in relation to what is known as the Iowa branch of the Union Pacific Railroad, which connected with his two lines in Iowa, or the two lines with which he was interested.

Q. Although you had not had business relations, you had had friendly relations?

A. Yes, sir; very friendly relations. To explain that I ought, perhaps, to allude to what some Senators well know, (the chairman most undoubtedly does,) that there was a very severe struggle in relation to the location of the line of the Union Pacific Railroad; whether the main line should connect with these from Philadelphia, Pittsburgh, Cincinnati, and Saint Louis, and on by the Smoky Hill, across to California, missing Iowa, or whether the main branch should connect with the Iowa roads, and go across by the South Pass, as it was then supposed it would, if it went by the Platte River. There was a very long struggle in Congress over the subject, and I and my colleague worked very hard to get the road located, as we thought, in accordance with the interests of our State, and of our people. That struggle commenced preceding 1862, and culminated in the bills of 1862 and of 1864. Of course Mr. Durant, having invested large sums of money in two of these Iowa roads, which would form the connection with the Iowa branch of the main line, would feel an interest in our triumph. I suppose he refers to that fact in his testimony; my familiarity with the subject, and knowing that in representing the intersts of the State I was representing the interests with which he was connected; if we triumphed in our local matter in Iowa, and got the main line located so as to connect with our roads, it would be an advantage to him. I suppose he thought that would be of more use to the Sate than a new man could be. I suppose that is what he referred to. There was no other interest that I know of.

Q. Yes. He states that in some explanatory portion of his statement. Was the conversation which you speak of in 1865, at this place or elsewhere?

A. I think it was here. I think it was at my hotel. I was not keeping house then, I think. I am not sure about that.

Q. You went into the Interior Department in the spring of 1865?

A. On the 15th of May, 1865.

Q. And left it when?

A. On the 1st day of September, 1866. I remained in the Department fifteen months and fifteen days.

By Mr. STEVENSON:

Q. When did you leave it in 1866?

A. The 1st day of September, 1866.

By the CHAIRMAN:

Q. Was Mr. Durant at this time the managing agent of the Union Pacific Road?

A. In 1865?

Q. In 1865.

A. Well, he was very active.

Q. What was his relation to the road? Was he president or vice-president, or had he any office?

A. I would not be able to testify from my personal knowledge, what his official relation to the road was; though in the testimony which has just been read he says he was vice-president. I was informed that he held an interest in the other line at the time; that is, preceding the legislation of 1862 and 1864, in what was known as the Leavenworth and Pawnee or Kansas branch. But I think he transferred his interest to what was known as the Omaha line very soon after the law of 1864 was passed.

By Mr. STEVENSON:

Q. Do you know of any other money contributed by Mr. Durant or the railroad company to the election, Mr. Harlan?

A. I do not. I saw in the newspaper report of the testimony that he said—that is my memory of it, at least—that he might have contributed other funds; but if so, I know nothing about it.

By Mr. STOCKTON:

Q. Mr. Harlan, you mentioned in the course of your examination that Mr. Durant had spent money in other elections?

A. No. What I intended to say was, that in conversation with Mr. Alley in the early part of 1868, I think in the hall of the House, he asked me if the Union Pacific Railroad Company had advanced any money for election purposes in Iowa, to which I responded, "No, I thought not." He then stated that settling up the affairs of the company preparatory to the new management—himself, and Mr. Ames and others—that Dr. Durant had brought in a large account for continued expenses, amounting, according to my memory, to some hundreds of thousands of dollars, although I could not give the exact amount as stated by him; and that in explaining it, he said that he had been liberal in elections, and mentioned some election in New York—I think in the State of New York—and some election in New Jersey. I think that was an election of some member from a congressional district in New Jersey. Also, some other election in one of the New England States, and in Iowa. This was the statement of Alley to me in explaining why he made the inquiry of me as to whether the road had advanced money for election purposes in my State. Then I said to him that he might take it for granted that Dr. Durant had himself advanced some money for election purposes in Iowa, but not, I thought, of the money which belonged to the stockholders of the road; that he would have no right to do that, I supposed; that he might advance his own money, but had no right to use that of other parties.

Q. Do I understand you that that put you on inquiry as to whether it was the money of the road or not?

A. It did; and on the next day I called on Mr. Ames, having made the inquiry of Mr. Alley, who was the managing man who had the control of this new organization. He mentioned Mr. Ames as having as

much to do with it as anybody. I then called on him on the next day, I think it was.

By Mr. STEVENSON:

Q. Alley said so?

A. Yes, sir. Alley said that Ames had as much to do with it as anybody. I called on him then, and recited, substantially, the conversation that Mr. Alley had had with me, and said to him that I thought Dr. Durant had a right to use his own money for election purposes, but that he had no right to use the money of stockholders; funds that were held in a fiduciary capacity for other people; and if any money belonging to the company had been so advanced for my interest, in any way, that I wished to know how much it was, and desired to give him my obligation to return it so soon as the amount could be ascertained.

Mr. STOCKTON. I do not want you to repeat, but would like to get at about the date of your conversation with Ames. I do not want to know to a day, as you probably cannot tell that.

A. I think it was in the early part of 1868. The House was in session at the time. Congress was in session. I saw Mr. Alley at his seat, and Mr. Ames on a sofa on the east side of the hall. Was there an extra session in 1868?

The CHAIRMAN. There was in 1867. I think not in 1868.

A. I may miss it a year. It may have been in 1867, but the impression upon my mind is that it was in the early part of 1868. If there was no extra session, then it must have occurred before the adjournment on the 4th.

By Mr. STOCKTON:

Q. You were elected to Congress on that occasion?

A. I was elected to the Senate in 1866.

Q. Was it in 1866 that these checks were given?

A. It was in 1865, preceding the election.

Q. Have you fixed that date? I have not observed——

A. No; I could not give the date when the checks were received. The conversation I had with Mr. Durant, when he proposed to assist us, was in the early part of the year 1865.

Q. Do you know what Mr. Durant's business was in Washington, at that time?

A. I do not.

Q. Was the business, as far as you understood it, connected with the Union Pacific Railroad? Was he here as their managing man?

A. Not that I am aware of. I knew that he was connected with railroads, both in my own State and in what is now known as the Iowa branch of the Union Pacific, or the Omaha branch.

Q. You do not recollect the district this was in New Jersey in which he had an interest?

A. I do not; and, although the name of the party who was interested was mentioned, I did not charge my mind with it at all. I remember this: that Mr. Alley, I think—and if not he it was Mr. Ames—said that this New Jersey man was a democrat, and that, while Durant might want to elect democrats, he did not feel any interest in their election. But I do not remember the name, and I am not sure whether it was Mr. Alley or Mr. Ames who said this to me in this conversation.

Q. What year was that?

A. I think it was 1868. It might have been 1867. The impression on my mind is that it was in 1868—the early part of 1868.

Q. That was not the same year, then, in which he invested in Iowa?

A. O, no; his interest in Iowa began, I suppose, between 1856 and 1860. I cannot give the dates, for I do not remember when the legislature of Iowa transferred the land-grant to the companies. The grant was made, in 1856, to the State of Iowa, and transferred by the State to certain companies afterward; and it was after this transfer of the lands by legislative act to the railroad companies that Durant became interested in those Iowa roads.

Q. In the testimony taken before the House committee, at page 178, the question was asked, "State whether the Union Pacific Railroad, or men connected with that enterprise, were called upon to assist in the senatorial election, in 1866, in the State of Iowa;" and the answer is, "I do not recollect. I did assist myself. I had a large interest in Iowa." * * * * * The question was then asked, "Whose election?" and he says, "Mr. Harlan's; for the purpose of securing Mr. Harlan's election." That was the election in 1865, I understand you?

A. It was the election of the legislature in the autumn of 1865 that was pending, which culminated in the election of a Senator in January, 1866.

Q. For what purpose was this money subscribed? What did they do with money in the elections of Senators in Iowa?

A. I suppose I might illustrate that by going into what I know was done last year by the democrats as well as by the republicans.

Q. But I am not asking a party question. This is the second time you have alluded to that. I am simply asking, as a member of the committee, whether any improper use was made of this money?

A. I do not think any improper use was made of it, and I will answer, of course, to the very best of my ability. Expenses are incurred in travel by gentlemen who feel an interest in results, and also in paying expenses of other parties who travel for them and in their interest; for printing, hotel-bills, and things of that sort.

Q. The reason I asked you the question was, you said in your examination, voluntarily, that Mr. Durant had given you this money because he thought you would do better than a new man; that you had had considerable experience in shaping legislation, and therefore he had sent you $10,000 to secure your re-election. Therefore I asked you for what purpose that $10,000 was used? Did you have any other friends at that time who subscribed as liberally as Mr. Durant?

A. Well, sir, I have no doubt others made contributions.

Q. On the same ground—that you had been shaping legislation?

A. Well, because they wanted me re-elected, I suppose. As to whether they did so liberally, I do not know what amounts they may have given, but I suppose very few, if any, except himself, gave so much. I suppose no other person did.

By the CHAIRMAN:

Q. Mr. Harlan, during this period had the Union Pacific Railroad Company as a company occasion to be before your Department for official action of the Department?

A. During the pendency of the elections in Iowa?

Q. During the period you have stated; during the period of your occupancy of the Secretaryship.

A. Well, I would have to think to get up the dates. Under the law it became their duty, as fast as they had finished a section of the road of forty miles in length, or it became their privilege, to report it to the President, and it became his duty to send commissioners to examine it

and to accept it; whereupon they would be entitled to the land-grant and the subsidy in bonds for that section.

Q. Was the acceptance of the road the office of the President?

A. The statute will show. I think the authority was vested in the President. It was his duty to appoint six inspectors or commissioners, and their duty to report to him.

Q. Do I understand you to say that there was nothing, to your knowledge, except this ordinary business?

A. Nothing else, that I remember, except this ordinary routine business in reporting the progress of the road from time to time. I think just about the time I went into the Interior Department a report had been made either on this line or on the other line, and possibly on both, of the first section of the road, and there was a question raised about whether the Omaha branch should go across the hill, as they called it there, or go around by the valley, which has sometimes been called the Ox Bow line, and I recommended the President to appoint a new commission, to consist of an engineer of the Army and two other persons, to go and examine it. He approved of the suggestion, and a call was made on the Secretary of War to detail an Army engineer. He detailed an officer by the name of Simpson, who had been superintendent of military roads in Kentucky and South during the war. He and his associates went and made an examination and an elaborate scientific report on the subject, which was afterward printed by Congress, I believe. That occurred some time during the year 1865. I do not remember what period of the year.

By Mr. STEVENSON:

Q. When did you take your seat in the Senate?

The CHAIRMAN. It was in 1867.

The WITNESS. I judge it was in 1867.

The CHAIRMAN. It was in March, 1867.

The WITNESS. If there was an extra session after March, I took my seat immediately; but if not, it would have been in December.

By Mr. STEVENSON:

Q. You were elected by the legislature to which this contribution was made which took place in 1865?

A. The house and half of the senate were elected in October, I think, 1865. The election of Senator occurred in January, 1866, following. I was elected at that session of the legislature, and took my seat at the beginning of the succeeding Congress.

Q. Did any legislation touching the branch of the Union Pacific, in Iowa or elsewhere, take place while you were a member of the Senate?

A. Preceding this election?

Q. After this election.

A. After the election, all the legislation that occurred in relation to that subject, after my return to the Senate, there was some. I would have to think a little and to look at the records, to see what occurred, in order to be exact. The first bill chartering the company passed in 1862. The amended law passed in 1864. It was under the law of 1864 that the companies really went to work. There was no other legislation of very much consequence on that subject, I think, afterward. The question arose in relation to the Kansas branch of the road, whether it should continue to build up the Republican Fork, and unite with the main line at the one hundredth meridian, or whether it might diverge off south. That bill was passed before I re-entered the Senate, permitting them to relocate their line, and go off in the direction of Santa

Fé. Then there was some legislation which occurred in reference to the payment of one-half of the cost of Government transportation by the Secretary of the Treasury to the company. That must have occurred in 1869 or 1870, I suppose; somewhere along there. Then, after that, there was an act passed in reference to the location of what is known as the Omaha bridge, and, about the time the road was completed, there was an act passed for the adjustment of a dispute between the California Central Pacific Railroad and the Union Pacific Railroad. They had built up past each other, each one claiming the right to go on; that is, they had graded past each other some hundreds of miles, and a dispute existed as to where they should unite, and Congress passed a bill declaring where the union should take place. That is all the legislation which I now remember, and I do not remember the dates when those bills were passed.

Q. There were no land-grants made to any of these roads after you took your seat in the Senate?

A. No; there was no enlargement of the land-grants to any of the Union Pacific Railroads.

Q. Or any of its branches?

A. Not that I remember. I think none whatever.

Q. None of them revived?

A. No; none had expired. The law passed in 1862 making the grant. They had ten years. At all events none of them lapsed, I think, or have expired at all. The grant of 1862 was enlarged by the law of 1864. It was just doubled in 1864, as I remember it.

Adjourned to 1.30 p. m.

THURSDAY, *February* 13, 1873.

HENRY WILSON examined by the chairman:

Mr. Wilson, in the testimony already taken before the committee of the House, and referred from the Senate to this committee, is detailed a certain transaction between yourself and Oakes Ames in regard to the purchase of Credit Mobilier stock. The committee desires to call your attention to that transaction, and to say if you have anything to offer in the way of explanation, or in addition to what has already been said, they will be glad to hear you.

Answer. I have no desire to add to or take from my testimony.

Q. You refer now to your statement?

A. To my own testimony. I do not know whether Mr. Ames disagrees with what I have said or not.

Mr. STEVENSON. I understand he does not. He corroborates it.

Mr. WILSON. As I am here, I will say that I knew nothing of the Credit Mobilier; had never heard a word against it, and trusted entirely to Mr. Ames, who stood high as a business man in Massachusetts and in the country. If I had had money I have no doubt I should have done precisely as I advised my wife to do, both in investing the money and in giving up all its benefits. I never had any of the stock of the Credit Mobilier, or any interest in it or benefits from it; but I wish it to be distinctly understood that I am willing to be held morally responsible for the investment and for the mistake, if any mistake was made. The money belonged to my wife; the investment was made wholly for her benefit; but I do not wish to shield myself from any just responsibility because of that fact. Her money was invested for her with her consent, and settled with her consent and in her presence with Mr.

Ames. When I found that there was some dispute among the managers of the road, and that there might be some mismanagement in regard to it, I notified Mr. Ames and had the transaction closed without any benefit to myself or wife. When it was settled the balance due Mr. Ames, interest included, was $814, which was paid.

By the CHAIRMAN:

Q. How was that due to him?

A. The amount paid Mr. Ames, in the aggregate, was $2,000; the amount credited was $2,748; amount of interest was $66; making exactly $2,814, which made a balance in Mr. Ames's favor of $814, which was paid to him, so that nothing came out of the transaction to myself or wife. If a mistake had been made in the investment, I determined to cancel it and yield up all the benefits that had accrued or that should accrue. By canceling the bargain, the $2,748 profits that had accrued, and all, if any, that might accrue, were sacrificed.

Q. Was your retiring from it on account of apprehension of loss, or a disinclination to be associated with it?

A. There was no apprehension of loss, because Mr. Ames guaranteed the investment. I feared there might possibly be some wrong in it, or in the management, or that legislation might be required; and I did not wish to be associated with anything that would probably come before Congress for legislation, or concerning which there might be any question of right or of propriety.

By Mr. STEVENSON:

Q. When your wife's money was paid to Mr. Ames, why was not the stock delivered?

A. Mr. Ames promised to deliver the stock, but he never did so. I always supposed he would have done so if the bargain had not been canceled.

Q. Did you ask him for it?

A. I do not remember ever having done so.

Q. I understand when the $2,000 was paid, he gave you some memorandum in writing.

A. He gave a receipt for the money, and a statement to the effect that he would furnish the stock, guarantee it, and that it should bring ten per cent. interest. I do not remember exactly the language of the paper.

Q. Who has the paper?

A. It was given up when the settlement was made.

Q. How long was it after the execution of the paper before you received any dividends?

A. The bargain was made and the first money was paid on the 5th of December, 1867, and I think the first dividend was paid in the month of February following.

FRIDAY, *February* 14, 1873.

Committee met at 10 o'clock, pursuant to adjournment.

ROSCOE CONKLING examined.

By the CHAIRMAN:

Question. In the matter of the testimony of the House committee, sent to the Senate, and referred by them to this committee, I desire to direct your attention to that portion of it which is contained in Mc-

Comb's testimony, of which I read such portions as relate to you. He is testifying in regard to some stock supposed to be placed to Mr. Bayard. He says, (at page 9:) "I asked him whether, in putting down one to Delaware in this letter, he meant that he had given any to Mr. Bayard." He said: "No; I gave that one to Senator Conkling, of New York; and that he gave a thousand dollars of the stock to him." On page 20, in the testimony of Oakes Ames, it is stated: "Mr. McComb swears I told him I had given one to Senator Conkling. It is absolutely untrue. I never said so; nor did I ever agree to get him one; nor was he ever interested in the company." On page 30, in the testimony of the same witness: "Q. As to Senator Conkling, you say that he never was the owner of any stock, and that there never were any negotiations between him and you.—A. No, sir; he never had any stock, and never paid for any; and never received any dividends from me, to my knowledge." On page 293, it is referred to again in the subsequent testimony of Mr. Ames: "I think you stated before in your testimony that neither Mr. Conkling, Mr. Fowler, nor Mr. Bayard, whose names have been mentioned in connection with this business, were ever holders of this stock.—A. Not to my knowledge. I had nothing to do with it. Q. Neither of them ever paid you anything, or ever received anything from you?—A. No, sir. Q. Neither of them were ever stockholders of the Credit Mobilier stock, to your knowledge?—A. Not to my knowledge. Q. You have no information that they were?—A. No, sir."

The WITNESS. I can corroborate Mr. Ames, if he needs corroboration.

By the CHAIRMAN:

Q. The committee have regarded this as preliminary, and unless it leads to an examination in the way of evidence, they have not proposed the oath to a Senator. Of course, anything that you desire to speak of in regard to this matter, in the way of explanation, it is open to you to say——

A. I will state that I never owned or received, by purchase, gift, or otherwise, any stock or interest in the Credit Mobilier, or in the Pacific Railroad Company. By the Pacific Railroad Company, I mean the whole road, both the Union Pacific Railroad Company and the Central Pacific Railroad Company, and I have never been an owner to any extent in either.

FRIDAY, *February* 14, 1873.

J. W. PATTERSON examined.

By the CHAIRMAN:

Question. Mr. Patterson, you will find references to testimony in relation to yourself on pages 6, 20, 26, 27, 31, 32, 40, 303, 337, 352, 184, 186, 261, 262, 263, 264, 265, 266, and 267, of the report of the House committee, which has been sent to the Senate and by the Senate referred to this committee. Assuming that your attention has already been called to this testimony, I will not read it to you, but refer you to the general statements. You are at liberty to state what you choose.

Answer. I have prepared a written statement, which, with your permission, I will read.

Senator Patterson read the statement, which is as follows:

In the investigation of the House committee, of which Mr. Poland is chairman, a conflict of statement between Mr. Ames and myself has attracted such attention as to make it proper I should now refer to it.

Though a stranger to Mr. Ames when I entered Congress, I became intimately associated with him in 1864, in a tour of observation made in that year, under resolution of Congress, of a portion of our northeastern coast. Thrown together for several weeks, that intimacy ripened into friendship, which induced, on my part, the utmost trust and confidence. In 1867, influenced perhaps by a previous offer of Mr. Ames to invest money for me which would certainly be productive of profit, I gave him $3,000. Subsequently, in 1869, I gave an additional $4,000 for the same purpose.

The conflict of statement, to which I have referred, relates solely to the investment of the first-named sum. The $4,000, it is admitted by both of us, were invested in the stocks and securities of the Union Pacific Railroad Company.

During the late senatorial election in my State I was informed that a gentleman, who opposed my re-election to the Senate, accused me of owning stock in the Credit Mobilier, and had declared his purpose to use against me this alleged ownership of the stock, and so draw upon me some of the odium which had been excited in the public mind against that company.

As no written memorandum passed between Mr. Ames and myself when I deposited the $3,000 with him, I had only my memory to appeal to in determining what had been said as to the object of its investment.

Feeling very sure that I had desired the *first* deposit to be invested, as it is admitted the *second* was, in the stock and securities of the Union Pacific Road, I stated to my informant very emphatically that it was not true I was interested in the Credit Mobilier.

I immediately sought an interview with Mr. Ames and told him of the effort being made to injure me. I said to him, as you know I am not a stockholder in that company, I would be glad if you would write Mr. Rollins, and so state. He replied, "You are certainly not a stockholder, and I will so write." Of course, in detailing conversations I only claim to give the substance, not the words used.

A short time after this Mr. Ames came to my seat and submitted to my perusal a letter addressed by him to Mr. Rollins, which was perfectly satisfactory, and I so said to Mr. Ames. On reaching home, I found Mr. Ames's letter and my denial, notwithstanding. Mr. Rollins was urging against me my ownership of this stock. I sent a telegram and a letter to Mr. Ames, requesting him to give me what he had written to Mr. Rollins, and finally received the following letters:

"WASHINGTON, D. C., *June* 9, 1872.

"DEAR SIR: I have your telegram asking me to give you the substance of the letter I wrote Rollins. You saw the letter. I added nothing to it after you saw it, and it is the only letter I have written him. The substance of it was that I heard he was making charges against you, or representing you as holder or owner of stock in the Credit Mobilier, and that there were wrong and improper influences in relation to it. I wrote him that I *did not think you ever had any of the stock*, and if you had, there was no more impropriety in it than owning bank stock.

"Yours truly,

"OAKES AMES.

"Hon. J. W. PATTERSON."

"NORTH EASTON, *June* 12, 1872.

"DEAR SIR: I wrote you from Washington in reply to your telegram. I have your letters of the 8th and 12th this evening here on my arrival

home from Washington. I stated in that letter the substance of my letter to Rollins. You saw the letter I wrote him, and there was nothing in that but the truth; and that Mr. Rollins should say that the Credit Mobilier of America was a fraudulent concern and that those engaged in it perpetrated a fraud on the country, community, or its stockholders, is simply an untruth. The stockholders of that company contained some of the best men of the country; and Mr. Rollins knows it; such men as John J. Cisco, General Dix, William H. Macey, M. Dillon, McCormick, James Brooks, and many others of New York; Glidden & Williams, Ezra Baker, Elisha Atkins, John Duff, Samuel Hooper, F. Gordon Dexter, Hon. John B. Alley, Oliver Ames, and myself, and many others; and I am proud to say that I was a stockholder in it, and that there is and was nothing wrong in holding the stock any more than in owning bank or railroad stock; and Mr. Rollins would be ashamed to make such charges *if you had been a stockholder and manager in the company, as you were not.* If Mr. Rollins can find nothing against you than being a stockholder in the Credit Mobilier, you must be the purest man in New Hampshire or in the United States Senate.

"Trusting you will not suffer because you are accused of being a stockholder with me, *and not realizing the profits,*

"I am yours truly,

"OAKES AMES.

"Hon. J. W. PATTERSON."

This conversation with Mr. Ames, and the letters which it induced, would have confirmed me in the belief that my two investments were in the Union Pacific Railroad stock and securities, if doubt had theretofore existed on the subject. There was nothing which could have influenced me to represent to the committee or the country that my investment was made in the Union Pacific Railroad rather than in the Credit Mobilier. So far as Congress is interested in this investigation, the only legitimate object is to ascertain whether its members had private interests in companies subject to its jurisdiction and legislation, as a basis to the further inquiry whether that interest had improperly influenced legislative action. In this view, therefore, it would have been to my advantage to show that my investment was in the stock of a company deriving its charter from State authority, and having no connection with congressional legislation, rather than with one which owed its existence to Congress, had received additional legislation, and was in condition which made future legislation not improbable.

On the 17th December Mr. Ames, in his examination by the committee, stated:

"Mr. Patterson bought of this Credit Mobiler thirty shares, and it was by his order transferred to a banking-house in New York. (Vide p. 20.)

"Q. You do not suppose it was transferred on the books to that firm?

"A. That I cannot say. I have no knowledge of it.

"Q. Do you know whether those thirty shares were ever on the books of the company, transferred to anybody, or whether they still stand in your name?

"A. I do not know. I have not seen the books of the company.

"Q. But you understand that you really parted with those thirty shares of stock for the benefit of Mr. Patterson, and that he, or somebody for him, was entitled to take dividends on them?

"A. Yes, sir." (Vide pp. 24, 27.)

These statements of Mr. Ames, so much in opposition to my own recollection, which, as already stated, had been confirmed by my conversation with him, and by his letters to Mr. Rollins and myself, greatly surprised me. Still, when I appeared before the committee, I thought proper, (these statements to the contrary notwithstanding,) to give my own recollection as to the character of my dealings with Mr. Ames and what I had always believed to have been the mode in which my funds had been invested.

My testimony was given one month after these statements were made, that is, on January 16. In concluding my version of the transaction, I said I had been thus explicit because I had been misrepresented, "and not because I see any breach of propriety or personal integrity in a congressman purchasing or holding this Credit Mobilier stock, more than paper, wool, legal-tender, bonds, bank-notes, bank-stock, or any other species of property, liable to be affected by legislation, but upon which legislation was not anticipated at the time of the purchase. (Vide p. 185.)

Again, the same idea is expressed in the examination in reference to my statement that, in the first conversation ever had with Mr. Ames, as to an investment, the Credit Mobilier was mentioned by him:

"Q. The negotiation in relation to your becoming an owner of Credit Mobilier stock was broken off by you?

"A. It was never consummated by me.

"Q. If you had insisted upon that stock, Mr. Ames would have let you have it?

"A. I have no doubt about that.

"Q. Can you state what were the considerations that led you to think it best not to become the owner of it?

"A. I had not the money to buy it, that was the trouble about it. If I had had the money within any reasonable time after the conversation, I have no doubt I should have got it; but I did not happen to have the money." (Vide p. 186.)

With these free admissions as to my entire willingness to have become a stockholder in the Credit Mobilier, when the subject was first mentioned to me, I answered the inquiries of the committee, (the statements of Mr. Ames being then before me), to the best of my recollection and belief at the time, as follows:

"Q. You never held, I understand you, any of this Credit Mobilier stock?

"A. Never.

"Q. Were you ever treated as being the owner of it by Mr. Ames?

"A. I did not so regard it.

"Q. The stock which came into your posession was not received as dividends?

"A. I do not so regard it; I bought the stock with my own money."

Subsequent to my examination, Mr. Ames was again called to testify on January 25, when, in the course of his testimony, he produced a receipt written, as he says, by him, and signed by me, dated at Boston, May 6, 1871, (p. 337.) Again, on January 29, he produced another receipt, written also by him, and signed by me, dated Washington, February 14, 1868, (p. 352.)

I need not state that this was a great surprise to me. I knew I had given him receipts in one or two instances, but had not the slightest impression or recollection that they were of the character which they bear. They were never alluded to by Mr. Ames in any of our inter-

views, and they surely must have been equally beyond his own recollection, when, in his conversation with me as to the senatorial election and the charge made against me that I was a stockholder in that company, he said I was not, and so wrote to Mr. Rollins. The receipts, as is seen, bear date prior to that conversation and letter.

I cannot deny, from the inspection I have made, that my signature to those papers is genuine, and I am well aware it is to be presumed I had knowledge of all the facts stated in them. I can only account for my ignorance of their wording by the entire trust and confidence I reposed in Mr. Ames. I regarded him as a friend using my means so as best to promote my interest, and therefore readily signed whatever he wrote without that care and circumspection which ordinarily attends business transactions. In fact, this was a friendly rather than a business transaction, and I gave little thought to its character or details.

It results, from the admission made of the genuiness of my signature, that Mr. Ames's statement as to the investment of the $3,000 is sustained, and that mine is erroneous. I repeat now what I have always said, that I have no more objections to a proprietorship in the stock of the Credit Mobilier than in that of the Union Pacific Railroad Company, and, entertaining these views, I would have as readily stated my ownership in the former on all occasions as I did in the latter.

It was with this conviction I stated explicitly, in the senatorial canvass in New Hampshire, that I had bought stock or securities in the Union Pacific Railroad; but had never purchased into the Credit Mobilier, though I could see no wrong in such an investment. This was said in good faith and without a doubt of its truth.

Whether the owner of stock in one of these companies or in both, I can conscientiously state that no improper or corrupt purpose entered into my acqusition of it, and no improper or corrupt influence was ever exerted thereby on my conduct as a legislator. Whether these statements be true is a very proper inquiry to be made if circumstances, in the judgment of the committee, call for it. I invite it earnestly.

It is proper I should advert to one other matter, to wit, my letter addressed to Mr. Ames, dated Washington, January 4, 1873. [Page 328.] This was eighteen days after Mr. Ames had testified before the committee that I had bought thirty shares of the Credit Mobilier stock. During the holidays, which occurred shortly after Mr. Ames had made this statement, so greatly to my surprise, I met him in Boston, and called his attention to what I regarded as a mistake in his evidence as to my first investment. He replied he had put the matter as he recollected it, but very likely he had forgotten the details, as it was a long time ago. He then requested me to sit down and write out my understanding of the transaction. This I could not do, as I was soon to leave for Springfield. "Then," said he, "write it out when you return to Washington." On my return I wrote the letter, had it copied by my wife, and delivered to Mr. Ames by my friend, the Hon. John H. Rice, of Maine, to whom I explained its contents, and the circumstances which induced it. As it is seen, the first and largest part of the letter relates to the first interview with Mr. Ames, in which he had offered to sell me Credit Mobilier stock, which resulted in my declining, as I had no means at the time. The statement of my understanding of that interview and its result was made under the circumstances recited, to enable Mr. Ames to refresh his memory, and to correct his deposition, if convinced of his error.

Then followed the sentence commencing, "If pressed to know if I

purchased, at any time, any stock or bonds in the *road*, you can say I did," &c. I have been subjected to very severe criticism for this. It has even been said that it indicates an attempt to suborn the witness to testify falsely. I ask attention to the fact that, at this time, no evidence had appeared as to my $4,000 investment in the Union Pacific Railroad. I confess I had a reluctance that my private affairs should, without necessity, be made public. Besides this, the public curiosity as well as what seemed the desire of the committee, was directed solely to the hunt for stockholders in the Credit Mobilier. I, therefore, did not wish Mr. Ames to state my ownership in the Union Pacific Railroad without he was pressed; but if he was, gave him liberty to state all the facts. Under the circumstances, it was unfortunate I should have used inconsiderately an expression which was subject to criticism. Had I been conscious of intending so grave a wrong as is imputed to me, I should hardly have had my letter copied by my wife, or communicated to my friend. Indeed, I would have trusted nothing to writing.

I wish further to remind the committee that the only embarrassment under which I labored at the date of this letter was in the allegation that I was the holder of Credit Mobilier stock. Now, if the object of my letter was to procure a collusive arrangement with Mr. Ames, to free me from it, I should have written, "If pressed to know whether I purchased Credit Mobilier stock, you can say I did not, but purchased stock in the road."

I have said the first part of my letter explained to Mr. Ames my understanding as to what had passed in reference to the Credit Mobilier. Believing this statement would satisfy him I was correct and he in fault, I thus conclude: "Don't fail to correct your original statement before the committee. It must not be reported as it now stands." Of course, my request for correction was founded on the impression that my statement should make as to its truth.

Mr. Ames stated that I had written him other letters. The only other letters which I have written him have been notes, asking him to call at my room, or allow me to call at his.

After having written the foregoing for the purpose of presenting it to the committee, I received, in answer to inquiries from my business correspondent in New York, information which goes to confirm the statement made by Mr. Ames of the transfer and deposit of stock in the Credit Mobilier to my account and benefit with the firm of M. B. & Co., though previous communications from the same correspondent confirmed me in the belief expressed in my examination before the Poland committee that no such stock had been transferred to me or to others for my benefit.

To state this whole transaction briefly, it stands thus:

1. I hand Mr. Ames $3,000 to invest for me. He takes my money, and purchases thirty shares in the Credit Mobilier, but never transfers to me the stock, or even mentions it. He does not ask authority to hold it in trust, but holds it without my knowing he has even bought it.

2. He comes to me some months later and says, "I have sold your bonds," and pays me some money, for which I receipt, without giving any heed to the character of the receipt written by him. This he repeats. From all this is left on my mind the impression that he had purchased for me securities in the road, and not an interest in the Credit Mobilier.

3. At Pittsburgh, in his suit with McComb, Mr. Ames, as was generally understood, had sworn he did not hold Credit Mobilier stock in

trust for any one. As he had delivered none to me, I had a right to be confirmed, as I was, in my impression that I owned none.

4. In my senatorial contest, Mr. Ames denied, both in conversations and in letters, that I was a stockholder in the Credit Mobilier; that I ever received any of the stock or any profits on any stock. Had I not a right to believe and assert the same?

Then came on this comedy of errors, called an investigation, in which Mr. Ames testified that I had bought thirty shares of stock in the Credit Mobilier, and it had been transferred for me to Morton, Bliss & Co., of New York. I wrote to Mr. Morton to learn the facts, and afterwards, on my way through New York, saw him in person. He said they had never held any of that stock for any one. Thus I was led into a false impression of the facts of this case. I never spoke with a profounder sense of the truth of what I said, than when before the committee of the House; and if in error, I now protest the credit belongs to others, and not to me.

I have made this statement with the frankness which should characterize such communications. If I have misjudged, in supposing that my ownership of stock in either of the companies is compatible with the exercise of my legislative obligations and duties, I shall bow to your determination, though I must hold my own opinion to the contrary.

The CHAIRMAN. Unless the committee see fit to interrogate you particularly in regard to this whole transaction, as has been stated by yourself and the witnesses, are we to regard that as all you desire at the present time to state?

A. That is all. You will see that I accord with the reception of the receipts, after seeing the receipts, with Mr. Ames's statement that it was a transaction in the Credit Mobilier; although I did not so understand, and was led to believe it was not, by him. That is all there is about it, sir.

Q. That is to say, at the present time you are disposed to regard this as your full and complete statement, and you have no desire at the present time to make any other statement?

A. Nothing more, unless the committee require it or wish it. I have no objections to answering any questions that the committee wish.

Mr. STEVENSON. This is not exactly in proceeding with our understanding. The witness was to be called if he had anything to explain. Is this offered as a part of his statement?

The CHAIRMAN. This is offered as a part of his reply.

The WITNESS. It is offered as my explanation of certain misunderstandings.

The CHAIRMAN. He was interrogated in regard to what he had to say, and he replied, "What I have to say I will say in writing."

Mr. SCOTT. Mr. Chairman, it strikes me that the statement made goes so far beyond the simple expression of a willingness to abide by the testimony, or a simple explanatory statement, that it partakes of the nature of testimony before the committee; and if it is to remain as his statement, I presume that questions naturally would arise upon it. We had, therefore, better regard it as testimony, and swear Mr. Patterson.

Mr. Patterson was then sworn to the truth of the written statement.

Mr. Scott and Mr. Stevenson remarked that, at a future time, they would desire to interrogate Mr. Patterson, and at 10.45 the committee adjourned to meet at 1 o'clock.

FRIDAY, *February* 14, 1873.

The committee re-assembled at 2.30 p. m.

Senator HARLAN re-examined.

By Mr. STEVENSON:

Question. I will ask you whether you are able to state to the committee the dates of the two checks for $5,000 each, which you received from Mr. Durant? You have heretofore said you had only a recollection of one, but you supposed you did get two. I wish to get the dates of these two checks, if you have any means of giving them to us.

Answer. Well, as I stated on yesterday, Mr. Chairman, I do not remember the dates of the checks, and cannot fix them with any degree of certainty. I do not know whether they were before or after the October elections. I think I stated yesterday, and if not I state it now, that my friends expected to use funds to pay expenses which had been incurred during the canvass, and such expenses as might occur afterward, preceding the election of United States Senator.

Q. Have you ever seen copies of the check, or have the stubs of those checks ever been shown to you?

A. They have not, sir.

Q. Not since they were given?

A. No, sir?

Q. No copies of the checks?

A. No, sir.

Q. Has your remembrance ever been recalled to them by anybody?

A. Well, no one ever asked me that question before. Seeing what was published in the newspapers, and seeing the testimony in the House, as a matter of course, I thought of it.

Q. You have no remembrance of ever having seen either the stubs of the checks or the copies of the checks, nor of having your attention called to the checks themselves since you first received them?

A. That is a complex question. I had a conversation with Dr. Durant, in relation to the checks and asked him distinctly, assigning my reason for it, whether any checks had ever been drawn by him, or by his orders, payable out of the funds of the Union Pacific Railroad Company. I introduced the subject to him myself. My attention was not called to it by him nor by anybody else that I know of.

Q. You have no means of fixing the dates of the checks nor the periods when they were received by you?

A. I have not, unless I shall be able to do so by examining my correspondence. As I stated yesterday, I keep files of letters received, and press-copies of letters which I send, and when I shall get time to look them over I may find some allusion to funds used in this campaign.

Q. I would be very glad if you would do so, and I think it just to you to say that my attention has been called, as a member of this committee, to the fact that the stubs or copies of these checks were shown to you—perhaps in a committee-room in the Capitol. Before proceeding to introduce that witness, I should desire that you would fully examine your papers to ascertain whether you have any memoranda—first, as to when you received the checks which you say were received at different periods; and, secondly, to refresh your memory as to the fact of whether the stubs of the checks from the check-book, or the copies of the checks, were shown to you. I propose not to continue the examination until you have refreshed your memory. Of course I know nothing about it; but, as a member of the committee, a suggestion was

made to me that I should ask you that question, and I am sure you desire the whole thing to be explained.

A. Certainly, sir; and I am very much obliged to you for stating it; but this would look a little like an examination of witnesses with a view of testing the correctness of my memory, and if there are such witnesses I will inquire of the chairman if it would not be fair that they should be introduced, in order that I may have the opportunity of hearing what they say. My memory may be refreshed by that, and by my having an opportunity to cross-examine them. I have given my memory of the matter, as far as I am able to call it up, but I do not remember of ever seeing the stubs of the checks here, in the Capitol, or elsewhere.

Q. You said yesterday that you kept copies of all your letters, and you thought that by examining certain papers you could reach pretty accurately the dates when you received those checks.

A. Well, that is stating it stronger than I intended to state it in my testimony, and stronger than I find it as reported by the short-hand writer. I said that was the only mode I could think of by which I might possibly arrive at the time when these checks were given. I am not sure that that can be done, but it occurred to me that it was possible there might be some allusion to the matter in my letters received or sent; and, as I keep press copies of all the letters I send, and files of most of those I receive, I thought that might be one mode of arriving at it. If the chairman will allow me, in looking over the report of my testimony, I am inclined to think that I made an improper reply to one question which the Senator from New Jersey propounded. I did not intend it, and I will apologize to him if any such impression was made. It was in relation to how money was used in Iowa. If it is desirable to the committee that I should be interrogated on that subject, I shall take very great pleasure in telling anything I know about it.

Mr. STOCKTON. I do not know to what you allude.

A. You asked me to state how money was used in Iowa, and I find I am reported as having said that if the committee went into that I could state how democrats as well as republicans had used money during the last year. It has occurred to me that that was an improper reply to one of the committee.

Mr. STOCKTON. O, sir; that is not a matter of any importance either to you or me.

The CHAIRMAN. I noticed the reply at the time, but I thought it was rather playful than offensive.

Mr. STOCKTON (to the witness.) I should like to ask you a question, not with reference to the suggestion you have just made, but following up the questions of the Senator from Kentucky, and for reasons which I have with reference to testimony which will probably appear before this committee in regard to those checks. It is not necessary for me to say that I have no curiosity as to what direct political purpose they were put to. That I do not care to inquire into. It is a matter of no importance to me. But I do desire, and I think it becomes a part of my duty as a member of this committee, to ask you whether you received that $10,000 yourself—whether you got the money. You received the checks and indorsed them, you say. Now, did you get the money?

A. The first $5,000 check was inclosed to me in a letter. I remember receiving it distinctly, and remember indorsing it and giving it to a friend to have it cashed, and the money, if the committee desire to trace it, was handed to friends of mine to be used in defraying expenses incurred in the campaign. The other check I do not remember distinctly

about, but I have no doubt it was received by me in a similar way, indorsed, and probably handed to some one to go into the hands of my friends.

Q. I do not wish to use my position on the committee to inquire into the management of the republican party in reference to their money-transactions, which may be proper ones, but my information is that that money was not used for the purposes of the election. I may be mistaken. and I want, therefore, to ask you whether you got that money; and if you did, what you did with it.

A. Well, on that point I will inquire of the chairman whether, if there are witnesses to be examined on that subject, they ought not to be first introduced.

Mr. STEVENSON. So far as I am concerned I do not know of any witnesses. The gentleman who called my attention to it did not say he was a witness, but he suggested, as I understood him—and it was but a very short conversation—that I should ask Mr. Harlan whether these stubs of the checks or the copies of the checks had not been shown to, him in the Capitol. I did not understand him to say that he knew it but I did understand him to say that he thought that fact could be proved. I will ascertain from him whether he knows of a witness who will prove it. If he does, I shall be for calling that witness.

After some discussion, the question of Mr. Stockton, last propounded, was read to the witness, as follows:

"I do not wish to use my position on the committee to inquire into the management of the republican party in reference to their money-transactions, which may be proper ones, but my information is that that money was not used for the purposes of the election. I may be mistaken, and I want, therefore, to ask you whether you got that money; and if you did, what you did with it."

A. From the one check the money came under my control.

By Mr. STOCKTON:

Q. When you say the money came under your control, do you mean to say you received it?

A. No, Mr. Chairman. I cannot swear positively as to the receipt of the money itself. I indorsed the check and gave it to a friend to draw the money. Whether he handed the money to me and I handed it to other parties or not, I cannot now distinctly remember; but the funds were under my control.

Q. What was the name of the friend to whom you handed it?

A. I do not want to bring in anything that would involve the names of other parties, if I can avoid it, unless it is necessary to enable the committee to get on with the investigation.

I will ask the chairman of the committee if it is necessary that I should answer that question; whether I shall tell to whom I handed the check to have it cashed.

The committee-room was cleared for deliberation upon the question, and upon the re-opening of the doors the chairman ruled as follows:

The committee are of opinion that any question as to the disposition of the $10,000 received, is pertinent.

By Mr. STOCKTON:

Q. What was the name of the friend to whom you handed that check?

A. Carlton.

Q. Do I understand you that you handed him the check?

A. Yes, sir.

Q. Indorsed by you?

A. Yes, sir.

Q. Do you know what he did with the money afterward?

A. Well, yes; it came under my control. I am not sure whether he handed the money to me in person or handed it to a friend; but I remember very distinctly it was under my control.

Q. In reference to the other check, you have stated in your examination that you did not recollect distinctly whether you had received more than one check; that if you had received another check for $5,000, such as stated in the testimony read to you and printed, you probably indorsed that. Have you no recollection of receiving that money?

A. I have no distinct memory about that check. I have no doubt, however, from Dr. Durant's testimony, and what he has said to me, that the check came to me during the period of the canvass. I have no doubt that I indorsed it, and either gave the check as thus indorsed, or gave the proceeds of it, to friends of mine to be used in the canvass. I have no doubt about that at all.

Q. You do not recollect in what shape this money was received by you or Mr. Carlton; whether it was received in bills or not?

A. I think it must have been in currency; that was about the only kind of money we had then, I believe.

Q. You have no knowledge of your own, I understand you, of what Mr. Carlton did with it?

A. O, yes; I say it was under my control. He either handed it back to me or to some friend of mine.

Q. My object is to know what became of the funds. If you know what became of them please state.

A. I do; that is, I think I know. I know they were intended to be used in defraying the expenses of the election in Iowa; and although I could not trace it to see where every dollar of it was spent, or, perhaps, any considerable proportion of it, I have no doubt of its having been applied as funds are usually applied in such cases.

Q. Toward your election as Senator?

A. Well, toward the election of the legislature, and defraying the expenses of friends of mine who took an interest in it preceding the assembling of the general assembly and at the time of their meeting in Des Moines, the capital of the State. And that leads me to speak, if it is desirable to the committee, more fully in relation to a question propounded by the Senator yesterday. I am aware, Mr. Chairman——

By Mr. STEVENSON:

Q. Senator, before you leave this point, what is Carlton's first name?

A. I do not remember his given name.

Q. Where does he reside?

A. He then resided, I think, in New Jersey.

Q. Do know where he is now?

A. I do not, sir.

Q. What was his business?

A. He was the superintendent, agent, or secretary of the Methodist Book Concern of New York City.

Q. You do not know where he is now?

A. I do not, sir; but I presume he would be easy of access. I have no doubt of that. He is a man of some note.

By Mr. STOCKTON:

Q. Did you receive any other funds from any other agent of a railroad company to assist in defraying your expenses?

A. Not that I remember; I think not, sir.

Q. You said yesterday that you had received assistance in that way from other friends, but not to such an amount.

A. Well, yes, I have received from people, and do believe that other friends contributed.

Q. I have no wish, of course, to inquire into what your personal friends may have done for you. My question is simply limited to any agent or employé or officer of a railroad company, who may have assisted you. Are there any others?

A. None that I think of; none, at least, that I knew at the time to be connected with any railroad, and none that I now think of. I think I ought to state, as I have been called on to testify as to whom Carlton was, why I handed the check to him. In the first place I made an inquiry where the bank was. He inquired whether I had any bank business to do. I told him, yes, I had; that I had a check I desired to have cashed. He observed that their bank clerk would attend to it without putting me to any inconvenience, and I handed the check to him. He, doubtless, handed it to their bank clerk.

Q. Where was this?

A. It was in New York City.

Q. The check was on a New York bank?

A. On a New York bank.

Q. I think you said yesterday that you did not remember on what bank it was?

A. I do not remember the bank.

Q. I think you said you did not remember whether the money was given to you, or whether it was simply administered under your control; simply paid out under your control.

A. Do you mean in defraying expenses of the election?

Q. I mean this: I think I understood you to say you did not recollect whether the funds—the result of the check—were handed to you or whether they were simply taken possession of by Carlton and disposed of in the way you directed.

A. O, no. He had nothing to do with its disposition in Iowa. I do not remember distinctly whether the money was handed to me by him or to some friend, at the time with me in New York.

Q. Who had charge of the distribution of the money in Iowa?

A. There were a number of people who took a deep interest in it in Iowa.

Q. Can you give us the names of any of them?

A. I might, if I thought it over. Probably I never could remember who they all were. If the committee deem it advisable I will try and make out a list.

By Mr. STEVENSON:

Q. I understood you were in New York when you had this check?

A. Yes, sir.

Q. That you handed it to Carlton?

A. Yes, sir.

Q. To have it cashed?

A. Yes, sir.

Q. That Carlton did have it cashed?

A. Yes, sir.

A. And handed you the proceeds, as you think, in currency?

A. Well, he either handed it to me or to some friend who was with me at the time.

Q. Do you remember any friend?

A. There were several persons with me. I remember one by the name of William H. Corkhill who was with me at the time.

Q. Did that friend, whoever he was, hand you the money?

A. I do not remember about it. The money was intended to be used as I have explained——

Q. Yes; I am on another point. I want to get at this fact. You were at New York, and handed this check to this man in the Methodist Book Concern. Did you bring that money back with you from New York to Washington, or did you dispose of the money in New York? Did you deposit that money that you received?

A. I think not, sir. I do not think I deposited it.

Q. Then did you bring it back with you to Washington?

A. I cannot testify distinctly as to that. I either brought it back, or a friend of mine took possession of it, and brought it back. If I brought it back, I gave it to friends afterward to be used in the way I have indicated.

Q. Have you any remembrance whether you made the distribution of the $10,000 in New York or made it in Washington?

A. I am not testifying as to the distribution of the $10,000, I believe.

Q. No; I mean the one check for $5,000.

A. I do not remember distinctly the manner of the distribution of it.

Q. When was that; have you any idea?

A. It was during the summer or autumn of 1865.

Q. Then I understood you to say that you do not know whether Carlton handed you the $5,000 or whether he handed it to some friend of yours?

A. I am not sure about that.

Q. You do not remember whether the $5,000 was distributed in New York or brought with you to Washington?

A. I said I did not remember distinctly whether any part of it was handed to other persons or not. It was either there or here, or at some other point.

Q. Now comes Mr. Stockton's question to name any of the persons, either here or in New York, to whom any portion of that $5,000 was distributed?

A. I will make an inquiry of the Chairman, again, whether I am to go into that.

The CHAIRMAN. It is the opinion of the committee that any question as to the disposition of the funds is pertinent.

By Mr. STOCKTON:

Q. On page 178 of this book, which is referred to as to examine into, the statement is made by Mr. Durant as follows:

"By Mr. NIBLACK:

"Q. State whether the Union Pacific Railroad, or men connected with that enterprise, were called upon to assist in the senatorial election of 1866, in the State of Iowa.

"A. I do not recollect. I did assist myself. I had a large interest in Iowa personally, and during the canvass I assisted.

"Q. It has been stated that you gave a check of $10,000 to assist in that election?

"A. No, sir; I did not. I gave two checks of $5,000 each, to assist in that election.

"Q. Can you state the history of those checks, and state for what purpose they were given?

"A. For the purpose of securing the election.

"Q. Whose election?

"A. Mr. Harlan's. For the purpose of securing the influence of some newspapers." You say you recollect only receiving one check for $5,000. What I want to know is, how that money was received; to whom you gave it, and what was done with it. Those are the points of my inquiry.

A. Well, it would require some reflection, and, perhaps, some search for me to ascertain the names of all the parties who, I suppose, used some funds. I remember one man, whose name was B. S. Noble.

Q. Who did Mr. Noble get the money from?

A. I suppose he got it through me in some way; but I do not remember whether he got it directly from me or not.

Q. You do not remember whether you brought that money to Washington or not, I think you said?

A. Well, it was under my control; and whether I carried it back to Washington or whether somebody else took possession of it in New York, I can't distinctly remember.

Q. Have you any recollection as to the denomination of the bills?

A. I have not.

Q. And you do not recollect whether you had $5,000 in your pocket when you came back to Washington or whether you had not?

A. No. I do not remember whether I had it with me or not. I just testified that I did not remember whether I carried it back with me or not, or whether it was taken possession of by a friend there.

By Mr. SCOTT:

Q. I understand you to say that the $10,000—assuming that the other $5,000 was paid to you, as you suppose it was—was given to you specifically for the purpose of aiding in securing your election, and paying the expenses of the preceding campaign, and that it was so used by you or through your friends?

A. It was intended to be used to defray expenses incurred in the campaign, and that might be necessary to incur preceding the senatorial election; in defraying the expenses of friends who traveled through the State; who went up to Des Moines; who made hotel bills, paid railroad fare and stage fare, and all that kind of thing; and it was so used to my best knowledge and belief.

Q. It was applied for the purpose for which it was given?

A. So I believe; and so far as it depended on me it was so applied.

By Mr. STEVENSON:

Q. When did you take charge of the Interior Department?

A. On the 15th day of May, 1865.

Q. Did you, after the 15th day of May, 1865, and to the 1st day of January, 1866, receive any other money from any president, vice-president, agent, or employé of any of the three roads known as the Pacific Railroad, or anybody connected with them, than those two checks of $5,000 each, testified to by Mr. Durant?

A. Not that I am aware of, so far as I can now remember. I received none from any president of any railroad, or vice-president, agent, or stockholder, so far as I know, and would not have received it, if I had known it, from anybody as a contribution or in any other shape.

Mr. STEVENSON. I have some other questions to ask Senator Harlan, but I prefer that he should refresh his memory as to the dates of those checks before I proceed. [To the witness.] I understood you to say that the check which you remember, and the other which you have no

doubt you received, though you cannot positively identify the time were sent to you by the confidential clerk of Mr. Durant, and that they came in a letter?

A. One of them did.

Q. I say you only remember one?

A. Yes, sir.

Q. That one, you say, came in a letter. Now, you said you kept file of your letters, and you believed you would be able to tell about the time it was received. I defer my other questions until I can obtain the benefit of your examination as to the date of the check.

By Mr. WRIGHT:

Q. I will ask you whether any portion of this money was used to defray expenses that had already been incurred, or was it used alone for expenses subsequent?

A. It was intended to be applied to both—expenses incurred before the election in October of the members of the legislature, and such expenses as might be incurred afterward.

Q. Now, in being applied to expenses incurred, did it relate to expenses incurred for the party; that is, the election of the ticket as a party ticket throughout the State, or expenses incurred in attempting to elect particular men?

A. It was intended to be applied in favor of the election of a republican candidate, as a matter of course.

Q. Did any of it go into the hands of the chairman of the central committee, or anybody in charge of that?

A. I am not sure of that. Not a very large part, if anything. I do not remember distinctly about that.

Q. You have not any recollection of the date—as to whether it was received before or after the October election?

A. I have not. I do not remember whether it was received before or after.

Q. Were the two checks received about the same time?

A. No; I think there was some distance of time between. I could not, however, testify distinctly as to that.

By Mr. STOCKTON:

Q. Do you recollect where you staid when you went to New York, on the occasion when you got the money?

A. I do not; but when I run over on business I generally stop at the Astor House, and sometimes with friends.

Q. You do not recollect?

A. I do not remember now. I have not thought of it since.

Q. Do you recollect where it was; what particular point in New York, what room or what building, this money was given in?

A. O, yes; it was at Mr. Carlton's regular business house—his office.

Q. Is he a book publisher?

A. He was the agent of the concern, or the secretary—the agent, I think he is called.

Q. You received the money at the Book Concern, I understand you.

A. It was returned by the bank clerk, doubtless, to the office. There is no doubt about that.

Q. I do not know whether you understand me. I want to know whether you have any recollection of the room, apartment, or building; whether it was in the Astor House, or this Book Concern of Carlton's.

A. O, I think it was in the Book Concern. I think so from the circumstances. I remember inquiring from him if he could tell me where

the bank was, naming it, on which the check was drawn. He told me; inquired if I had any bank business; observed if I had that their bank clerk could attend to it, and I gave him the check. The check was cashed and the money returned, but I do not remember distinctly about where it was handed to me, or whether it was handed to me in person or handed to some friend who may have been with me.

Q. You do not recollect distinctly, then, where you spent the night? How many days were you in New York that time?

A. I do not remember how many days I was there.

Q. Do you recollect whether you were then in the Senate or whether you were at that time Secretary of the Interior?

A. O, I was Secretary of the Interior. I went into the Interior Department on the 15th of May, 1865, and remained until the 1st of September, 1866.

Q. Can you not fix the date you were in New York, then?

A. Well, that is possible, sir, if it is material.

Q. You were Secretary of the Interior about a year, then?

A. Yes, sir; fifteen months and fifteen days, to be exact.

Q. Do you recollect whether it was in the winter or summer time that you went to New York?

A. Well, sir, it must have been in the summer, I think. It was before the senatorial election, and that occurred in January. I think it was in the summer time. It may have been in the autumn. It may have been in the edge of the winter. I am not sure about that.

Q. You stated yesterday, and you said to-day, although I did not ask you any further questions about it, that there were other parties who furnished you money for this election. Will you be kind enough to name some of those parties?

A. Well, I do not think I said that there were other parties. I think I said I had no doubt other parties did do it. I thought they did, because they said they did. I have no doubt that they did.

Q. Did any other parties furnish you yourself with checks that you indorsed in this way?

A. I do not remember any one giving me anything for that purpose in checks. I cannot call up any one now. It is possible, however.

Q. Who were the parties whom you think did assist you?

A. There were a good many of them who assisted me in various ways.

Q. I mean by furnishing money.

A. I do not think I can give their names now.

Q. Can you not give the name of any one of them?

A. I do not think I can now. I do not remember anybody who gave me anything, but I knew generally that my friends were providing for the necessary expenses of the election.

Q. You cannot, then, if I understand you, recall any money which was given to assist in the campaign but Mr. Durant's two checks?

A. No, I could not swear to anything definitely, and yet I have no doubt other money was used to some extent.

At 4.10 p. m. the committee adjourned to meet to-morrow at 10 a. m.

SATURDAY, *February* 15, 1873.

HENRY WILSON examined.

The CHAIRMAN. I desire to call your attention to a dispatch sent to the New York Times, on the 15th of September last. It is contained in the New York Times of September 16, 1872. It is a special dispatch from Washington to the New York Times. (The article was read by Mr. Stevenson as follows:)

"The Credit Mobilier slander. Senator Wilson authorizes an emphatic and unequivocal denial. General Garfield also brands the slander as a falsehood. (Special dispatch to New York Times.)

"WASHINGTON, *September* 15.

"Senator Wilson arrived here this morning, and will leave to-morrow for Pittsburgh to attend the soldiers' convention. His attention having been called to the story that he had received a number of shares in the Credit Mobiler, he authorized a full and absolute denial of the entire charge in each and every particular. From neither Oakes Ames nor any other person did he obtain the slightest interest in that enterprise, and the allegation that he did is absolutely and unqualifiedly false.

"He desires the fullest and most complete contradiction of the entire allegation as without the slightest foundation in truth, and he asserts further that he has never owned a bond or a share of stock in the Union Pacific Railroad, or in any other railroad or corporation, that has been before Congress, during all the years in which he has been a Senator."

By Mr. STOCKTON:

Question. Did you authorize that communication to be sent? It states on its face that it was done by your authority.

Answer. I do not remember exactly whether I authorized the statement to be sent. I had a talk with General Boynton, I think it was General Boynton, and the statement in substance was made then. I say the same thing now, under oath, and in any way you choose to put it: that I never had a dollar of the stock given me, never owned a dollar of it, never had a dollar's interest in it, and never received any money from it, but, as I said, my wife did have some. It was her property and not mine, and that she knew and Mr. Ames knew and any number of people knew.

Q. Do you recollect saying to General Boynton, or to the person to whom you allude, whom you suppose to have been him, that you desired him to make a denial in the most comprehensive manner and sense, and for such denial to meet every detail of the scandalous charge?

A. I would not say the exact words, but that is the idea. I never saw the dispatch. It was sent, and I do not know who sent it, although I supposed General Boynton did; I had a talk with him and gave to him, in substance, that statement.

By Mr. STEVENSON:

Q. Did you ask General Boynton to send it, or did he suggest to you that he would send it?

A. General Boynton spoke to me about the matter. I do not know that I asked him to send it, but we talked of the subject. I did not use the words of the dispatch, but the idea is there. I do not remember the dispatch, and did not know that there was one until it was read this morning. I have no doubt I saw it about the time it was published, but did not pay any attention to it. I do not know that I asked

him to send it. General Boynton can tell better than I can about it, and I should take his word.

Q. Did you not get a copy of the dispatch, as made out by General Boynton, last night? He stated this morning that some friend of yours applied, and that he sent you a copy of it last night.

A. No; I have not received it.

Q. You have not?

A. No, sir; I have not heard of it. I have no doubt, I will say, but that I saw it at the time, but I was busily engaged then; on my way to Pittsburgh, and into Western Pennsylvania, and there were many days in the canvass where I was without seeing papers or paying any attention to them. But I supposed General Boynton sent that, and supposed it was founded on our conversation, of which it is the substance; that was the understanding I have always had about it.

Q. Did General Boynton show you a copy of this dispatch before he sent it?

A. I do not think he did. I do not remember that he did. It is possible that he might. He would know probably better than I, and under the circumstances I should take his word before I would trust my own memory. The conversation was a short one, and having so many things to do at the time, I would not rely upon my own memory about it. General Boynton is a man of character and truth, and I should take his word.

Senator Wilson, at the conclusion of his examination, asked leave to substitute for the testimony already given by him a written statement, (which appears in the prior proceedings of the committee,) explaining that he had preserved and embodied the points of his oral evidence, and had cut down unnecessary and irrelevant matter only.

The written testimony was read to the committee, and by consent adopted as a substitute.

Examination of Senator PATTERSON continued.

By Mr. SCOTT:

Q. Mr. Patterson, there are one or two questions which I desire to propose to you, and before propounding them I will read from the testimony taken before the House committee certain statements which prompt them. On page 185 you stated, on the 16th day of January, 1872, before that committee, as follows: "Near the close of 1867, when no man could have anticipated any further legislation upon this subject, and since when, if we except the transfer of the office of the company to Boston, there has been none, unless giving a construction to a previous act on a question raised unexpectedly by the Secretary of the Treasury, may be so considered, Mr. Ames came over to the Senate and proposed to sell me thirty shares of stock in the Credit Mobilier. He represented at the time that he did this as a friend, looking to my interest.

"I asked him to explain to me what the Credit Mobilier was, and he did so. I then asked him if it was proper stock for a member of Congress to hold. He said he thought it was, as they did not expect to ask for any further legislation, and, to give strength to his view, he mentioned several distinguished gentlemen of acknowledged integrity, who had either taken or proposed to take stock in the company. I then inquired if he thought it would be a profitable investment. He replied that he did, or he should not have offered it to a friend. I said I should be glad to take some of the stock, but could not then, as I had

no money. 'When you get some money which you wish to invest,' said Mr. Ames, 'come to me and you shall have the stock.'

"At that time I proposed to take the stock, and doubtless Mr. Ames expected I should, but I never found it convenient to take it before I concluded it was not best to take it, and so the purchase was not consummated, and I never received, directly or indirectly, nor did any one ever hold for me in trust, one penny's worth of stock of the Credit Mobilier."

A. I stated there that it was the close of 1867. Of course, that was entirely a matter of memory. In thinking over it since, I believe it was earlier. I think it was in the session of 1866–'67. I judge this simply from my impression of the distance of time between that conversation and the time at which I invested.

Q. How soon after this conversation in which you state that Mr. Ames did mention the Credit Mobilier to you and explain its nature, did you deposit the $3,000 with him?

A. Of course, I cannot tell definitely, because I cannot tell the definite time of this conversation. My impression is that it was six or eight months after that.

Q. When the deposit was made was anything said as to the Credit Mobilier, or was there any reference to the previous conversation about the Credit Mobilier?

A. I do not recollect that there was anything, sir, in relation to it.

Q. What interval of time then occurred between the deposit of the $3,000 and the purchase of the $4,000 worth of Union Pacific stock and bonds?

A. To answer that accurately I must depend upon Mr. Ames's dates, for I cannot recall the dates at all. He stated, when before the committee of the House at first, that the investment of $3,000 was in January, 1868, and the investment of the $4,000, some time in 1869. When he was last before the committee, I learned from the papers, he changed his dates from his memorandum-book, changing the date of the first investment from January, 1868, to August 31, 1867, if I recollect correctly.

Q. Let the date be what it may, when the second deposit was made, of $4,000, as I understand you, was no inquiry made as to the stock or security in which the previous $3,000 had been invested?

A. Not a word, sir.

Q. At the time you received dividends from Mr. Ames, the 22d of June, 1868, and some date in January, probably of 1871, was no inquiry made then as to the nature of the stocks from which the dividends were coming?

A. You have not got the dates correctly, sir.

Mr. STEVENSON. The first is June 22, 1868, and the other is May 6, 1871. (Referring to House committee testimony.)

Mr. SCOTT. I am speaking of these two receipts. The investment then was made by Ames, according to your statement, and, as is probable, in June, 1868, when you gave the first receipt. Was anything said, at that time, either by you or him, as to the stock or security in which the $3,000 had been invested?

A. No, sir; he came to me and said, "I have sold your bonds." I think it was at my seat. At any rate, he came to me, handed me the money, and wrote a receipt, which I signed.

Q. Then, again, on the 6th of May, 1871, was no inquiry made by

you, or no statement made by him, as to the stock or security from which the dividends came?

A. I have no recollection of it, sir.

Q. These two payments of dividends, Mr. Ames now states, were divider ds upon the Credit Mobilier stock, as I understand?

A. Yes, sir.

Q. Had your $4,000 been placed in his hands before the payment of either of those dividends; and if so, before which one?

A. Before the last one. That was in 1869, I think. The last of 1869, if I remember correctly, the $4,000 was placed in his hand. The last receipt is May 6, 1871.

Q. The $4,000 had been placed in his hands before that?

A. Certainly; yes, sir.

Q. Was it your understanding, before the receipt of the 6th of May, 1871, that the Union Pacific stock and bonds which you say he had sold, had been disposed of?

A. Of course; the bonds on which he paid me the money at the time the first receipt was given, I understood were sold.

Q. Were sold?

A. Certainly; sold by him.

Q. Then the receipt of the 6th of May, 1871, was after your interest in the Union Pacific Railroad stock and bonds were, as you understood, disposed of?

A. You do not get me, sir.

Q. Well, I want to understand you perfectly, and that is the reason I ask the question.

A. The first receipt was before that investment was made.

Q. That is the one of the 22d of June, 1868?

A. Yes, sir; and that, of course, was not bonds of the $4,000 investment.

Q. Very well. Now, between the 22d of June, 1868, and the 6th of May, 1871, the $4,000 investment was made?

A. Certainly.

Q. And before the 6th of May, 1871, the $4,000 investment had been again disposed of; sold, as I understand?

A. No, sir.

Q. Then I was mistaken?

A. I handed him the money. He came to me, and says, "They have got to raise more money for their road, and they propose to issue some new bonds." And he says, "Now, if you will pay me the $4,000 you may have so many bonds and a certain number of shares of stock." I could not have recalled, except as I recall it now from the testimony, the amount which he proposed to let me have. I paid him the money, but I did not receive the bonds at that time. The stock I did not receive until some time in 1871. I should say after the 6th of May, 1871, on our final settlement.

Q. Then you could not have been of the impression, either in June, 1868, or on the 6th of May, 1871, if this investment was not made—if you did not receive the stock until after that—that these dividends were the proceeds of this $4,000 investment?

A. I do not understand you.

Q. You say that the receipt of the 22d of June, 1868, precedes the $4,000 investment?

A. Yes, sir.

Q. You could not have been of the impression, of course, then, that that money arose from the sale of that investment—the $4,000?

A. O, no; of course not.

Q. Then, on the 6th of May, 1871, as I understand you, the Union Pacific bonds and stock had not yet been delivered?

A. No, sir.

Q. Was it your impression that the money you received was derived through the investment of the 6th of May, 1871?

A. Well, I did not know, exactly. That was after both investments, and he had my money to invest, and make the most he could for me. I did not know very much about it. I trusted to him.

Q. Then, from the time you first gave him the $3,000, until this investigation commenced, had you ever inquired of him, or had he ever informed you, in what security or stock that $3,000 was actually invested?

A. I have no recollection that he ever spoke to me about it.

Q. The reason that I have called your attention, Mr. Patterson, specifically to this statement of yours, in the first instance is, because I find, on referring to the testimony of Mr. Ames, on page 266, that you and he are at variance upon this same subject of the Credit Mobilier being mentioned; that you are as to the investment, and the knowledge of the investment. Mr. Ames says this, in reference to the receipt of the $3,000:

"What was said between you, Mr. Ames, and Mr. Patterson, when he received the money?

"Mr. AMES. My understanding was that I took the $3,000 to buy stock of the Credit Mobilier for him. That was my understanding.

"CHAIRMAN. What was Mr. Patterson's understanding?

"A. I suppose he understood it in the same way.

"Q. What was the talk between you?

"A. We did not talk anything about the Credit Mobilier.

"Mr. PATTERSON. What did we talk about at that time?

"Mr. AMES. We didn't talk about anything of that sort."

A. That confirms what I say.

Q. I wish to call your attention to a contradiction which appears between your testimony and Mr. Ames, with which I started. The testimony you gave was, "Mr. Ames came over to the Senate and proposed to sell me 30 shares in the Credit Mobilier."

A. You have got two things confounded there. When he came to me first and proposed to sell stock in the Credit Mobilier, he talked of that and nothing else; but the time of the investment of the $3,000 was the time referred to in this testimony, when nothing in respect to the Credit Mobilier was spoken of so far as I remember, and he confirms it.

Q. Your reconcilliation of that is, that your statement refers to the first conversation, before you gave him the money?

A. Certainly.

Q. And that his refers to the second, at the time you gave him the money?

A. Yes, sir; certainly.

Q. Did any receipt pass between you and Mr. Ames for the proceeds of the Union Pacific stock and bonds, to your recollection?

A. On our final settlement?

Q. When the stock and bonds themselves were disposed of, when he paid you, you do not know when that was, or whether there was one or two settlements?

A. I suppose so; I have no recollection about that. I do not want to say anything that will open any further controversy, for I have got heartily tired of this thing, but I must tell you just as it stands in my mind. Now, his receipt of May 6th runs in this wise: "Received two

hundred shares of stock, and a certain seven hundred and odd dollars on account of the Credit Mobilier. There is still due thirty shares of stock in the Credit Mobilier, and $2,000 in Pacific Railroad bonds." Now, I do not deny that the receipt was written by Mr. Ames; I do not deny that I signed it, but I simply say it could not be possible that I received two hundred shares of stock at that time, because when I did receive the stock, I received three hundred shares and received it but once, received it altogether, and put it into the hands of Mr. Morton, of New York, and it was sold all together.

Q. I understand that the Union Pacific stock and bonds that you received were bought and paid for with the $4,000 which you gave him to invest?

A. Yes, sir.

Q. And were not any that you were entitled to as dividends out of the Credit Mobilier stock?

A. Certainly not.

Q. It was altogether separate?

A. Altogether.

Q. And your statement is, as I understand it, that if there were dividends of Union Pacific stock and bonds due on account of the Credit Mobilier stock, you never received any such?

A. Well, I do not think you quite understand it. When he first came to me and paid me what he says was a bond dividend on the thirty shares of stock in the Credit Mobilier, which he purchased with my $3,000, he says, "I have sold your bonds," and paid me the money, and I receipted for it, leaving the impression on my mind that he bought bonds with my $3,000, whereas in his own mind it was simply a bond dividend which he received on the thirty shares.

Q. Then these receipts which you gave as dividends declared upon the Credit Mobilier stock, were really for the proceeds of the stock, or bonds, whichever they were, which he had received as the dividend on your stock?

A. That is it, sir.

Q. Then I put the other question. In settling for the proceeds of the Union Pacific stock and bonds which were purchased with the $4,000, did Mr. Ames take any receipt from you for that?

A. I presume so. I have no definite recollection about it. As I have said elsewhere, this was rather a friendly than a business transaction, and whatever Mr. Ames wrote I signed it.

Q. Has any such receipt been produced thus far in his testimony?

A. No, sir; I have not seen any such receipt.

By Mr. WRIGHT:

Q. If I understand your answer to the questions asked by Senator Scott, the $3 000 investment was previous to May, 1871?

A. Yes, sir.

Q. And the $4,000 also?

A. Yes, sir.

Q. Was the $3,000 investment prior to February, 1868?

A. Yes, sir.

Q. And up to that time there had been no investment of the Union Pacific Railroad stock?

A. Prior to February, 1868, do you mean?

Q. Yes, sir.

A. So Mr. Ames says.

Q. And was not, so far as you knew?

A. Why, my supposition, as I said, was, I gave him the $3,000, and my impression was that it was to be invested in the stock and securities of the road. He has a different impression, and his receipts go to confirm his impressions.

Q. The receipt of June 22, 1868, of $1,800, you are satisfied, now, was not from the Union Pacific Railroad stock?

A. I will say in relation to that that I do not question that receipt. I have seen it; I think it is in Mr. Ames's handwriting, and the signature looks like mine; but I am entirely unable to recollect the transaction.

Q. You have no question but you received the money?

A. I presume I did; I have no recollection.

Q. But are you equally well satisfied of the receipt of February 14, 1868, $2,328?

A. I am sure I received some money there; I could not name the number of dollars.

Q. At the time that receipt was given, in February, 1868, was there anything said as to the fund from which it arose?

A. No, sir; I have no recollection of anything.

Q. You have no recollection of looking at the receipt?

A. I have no recollection about it; no, sir.

Q. The receipt of February, 1868, was called to your attention yesterday, I believe?

A. Not yesterday.

Q. Well, when you were last before the committee?

A. I have never replied to those receipts yet, before any committee.

Q. Perhaps you referred to them in your statement of yesterday?

A. Yes, sir.

Q. And you say at the time that receipt was given nothing, as you now remember, was said as to the fund from which it arose?

A. No, sir.

Q. I understand now that you do not dispute or deny but that you received the $2,328 on the 14th of February, 1868, and the $1,800 on the 22d of June, 1868, but that nothing was said at the time that either receipt was given as to the fund from which it arose?

A. I do not deny it; and I do not remember that anything was said.

Q. At that time the $4,000 had not been invested?

A. No, sir.

By Mr. STEVENSON:

Q. I will ask you this question: Did Morton, Bliss & Co. ever sell for you any Credit Mobilier stock?

A. No, sir.

Q. You never delivered to any member of that firm any Credit Mobilier stock?

A. I think not; I have no recollection of anything of the kind. I should like to add a word there, if it is proper.

Q. Certainly, sir.

A. Of course, I do not want to enlarge this matter. Mr. Morton kept a country store in Hanover when I was in college; I have known him intimately from that day to this. I had an account open with him which I settled something like a year ago—a final account, in which there was no appearance of Credit Mobilier stock at all. If there was any stock there neither he knew it or myself. After Mr. Ames gave his testimony in the House, I sat down and wrote to Mr. Morton, and asked him how it was in respect to that. He wrote me a line saying he had never bought or sold any Credit Mobilier stock for me. That did not quite

satisfy me; and on my way back, after Christmas, I called on Mr. Morton and asked him if he had ever held any for me. He says, "I have never held any of that stock for anybody." I never held any business with any other gentleman but Mr. Morton. I had no stock of the Credit Mobilier. I thought I was justified in saying I never had had it, and none had been ever transferred to anybody for me or sold for me.

Q. No advance was ever made by Mr. Morton or any member of his firm upon any deposit as collateral of any of this stock?

A. No, sir.

General H. V. BOYNTON sworn and examined.

By Mr. STEVENSON:

Q. General, I want to call your attention to a dispatch in the New York Times, which you pointed out to us this morning, and to ask you whether you sent that dispatch, and on what authority.

A. Yes, sir. I sent the dispatch which you asked me in reference to in the committee-room this morning. I sent it upon Senator Wilson's authority, sending it to the Times as a matter of accommodation to a friend who was sending the dispatches at that time, but who was out of the city for that night. That is the way it happened to get into the Times. I have no connection with that paper, and have never had any.

Q. Was it sent at your request or at his?

A. Well, sir, I went to Senator Wilson to ask him in reference to this matter, talked to him in regard to it, and desired to deny this charge, if it could be denied; and, after a conversation with him, he authorized me to make that denial. It was written in accordance with what he told me, and not submitted to him; but it was his understanding, as it was mine, that that statement, in substance, was to be telegraphed that night. It was at my request, probably, sir, and not at his.

By Mr. SCOTT:

Q. You made up the dispatch embodying your understanding of the substance of the conversation with General Wilson?

A. Yes, sir; and did not submit it to him.

Q. You made it up after you left him?

A. Yes, sir; the same evening.

By the CHAIRMAN:

Q. Where was the first conversation?

A. It was at his room, in the Washington House.

Q. What time in the day? It was on Sunday, was it?

A. It was on Sunday. I came directly from church-service. It must have been about noon. I walked to the Washington House, went immediately to his room, and had the talk very shortly after. I should say it was between one and two o'clock.

Q. What time was the dispatch sent?

A. Probably by nine o'clock in the evening, although I cannot say that exactly.

Q. Do you remember where it was written?

A. Yes, sir; it was written at my office, on Fourteenth street.

Q. What time in the day was it written; about the time you sent it?

A. Yes, sir. I wrote it and filed it immediately. The dispatch is in the office with the exact time on it, if that is a matter of any consequence, but it was not far from nine o'clock in the evening. It might have been an hour either way.

Q. You wrote it about the time you sent it?

A. O, yes; I sent it at once upon writing it.

By Mr. STEVENSON:

Q. Did General Wilson, in that conversation touching the dispatch, and your inquiry in regard to contradiction, state anything about his wife having had an investment in the Credit Mobilier?

A. No, sir; not as I recollect it.

Senator HARLAN re-examined.

Mr. HARLAN. Mr. Chairman, in further reply to the committee I desire to make the following statement in writing:

In further answer to the several questions propounded to me by the committee I state that Dr. T. C. Durant's suggestion to me of his desire to contribute toward the expenses of the Iowa election, of which I have before testified, was voluntary on his part, and not the result of any intimation from me, or from any one at my instance, and was not made in consideration of any service performed, or to be performed, by me, personally or officially, for him or for any other person or any company in whose business he was interested; that there was no understanding, express or implied, that any such service should be rendered, officially or otherwise, as a consideration for any such contribution. I have no reason to believe, and do not believe, that it was offered for the purpose of influencing my judgment or my official action in any way whatever.

I also state that I do not believe, and have had no reason to believe, that at the time the contribution was made, or before or since, Dr. T. C. Durant either expected or desired any service, official or personal, as a consideration for the same. And it was not received with the expectation or purpose on my part of ever rendering any official opinion or service for the said Durant, or any other person or company, as a consideration, in whole or in part, for said contribution. And no such service ever was at any time so rendered by me for him, or for any person or company on his account.

I state, moreover, that I believe he was moved to proffer and to make said contribution solely out of personal regard for me as a friend, and from a conscientious belief on his part that it would be best for the State where he held a large property interest and for the nation that I should be returned to the Senate, rather than any one of my opponents; that this contribution was received by me in good faith, for the purpose named by the donor, and, as I believe, was so applied, in precisely the same spirit and intent that it would have been received and applied had it been proffered and given by any other personal friend, believed by me to be abundantly able to do so; and that so far as I was concerned its reception and use had no reference whatever to the donor's connection with any public or private enterprise; that it was received and applied with the same motive which has led me, at the suggestion of friends on various occasions, to collect and apply what would amount in the aggregate to large sums for the benefit of other candidates for office, State and national—just as I aided, less than a year since, to collect considerable sums of money to be forwarded to North Carolina, Pennsylvania, Ohio, Indiana, and Nebraska, to be used in defraying the expenses in part of the election of members of the legislatures which would be required to elect United States Senators, as well as State officers, preliminary to the presidential election, the desire to secure the re-election of certain eminent United States Senators being no small part of the motive influencing donations.

In further reply to the several questions in relation to dates of drafts, I state that although I am not yet able to give the committee definite information, after reflection, and striving to revive my recollection, it is my belief, founded on an indistinct memory of events, that they were received after the date of the Iowa October election; that they were not both received at the same time; that they probably bear different dates, some distance apart; that neither of them was cashed immediately after its receipt; that one of them was probably deposited and checked out afterwards; and that cashing one of them was probably deferred until late in the autumn, possibly in the winter. This belief, in part, grows out of a distinct recollection that the proceeds were partly anticipated, and other funds were used to meet current political demands, and replaced from the proceeds of these checks after they were cashed, and partly from a review of correspodence reminding me of a visit to New York late in the autumn or in the winter following the October election of 1865. It is, I think possible, if not probable, that one of these checks was cashed at that time. I have an impression, and feel almost certain, that one of them was held some time after its receipt, before it was converted; and it may have been the one sent to the bank by Mr. Carlton.

In further reply to the questions as to whom these funds were handed or sent for use, I am compelled to state that I have not yet found sufficient data to make a complete exhibit, and fear I shall not be able to do so, for the reason that I do not find any memoranda of expenses incurred in this election. I do not think I ever made any such memoranda, and do not find any separate account of these funds. They passed, in fact or by anticipation, from time to time, into the hands of friends, and were applied by them, either to re-imburse expenses previously incurred, or to pay current demands, for which no account was ever required by me. I made no effort to remember the amount of these several sums, and I cannot, consequently, state whether the exact amount of either check went into the hands of any one or more persons, but think it probable that the amount passed over to my friends for these purposes would exceed the amount of both checks.

In obedience to the expressed wish of a member of the committee that I should endeavor to state the names of the persons, or at least some of them, to whom these funds were intrusted or handed subsequent to the election, to re-imburse for expenses previously incurred, I have, since the adjournment of the committee on yesterday, sought and conversed with several personal friends whom I supposed might be able to give me some facts or aid in reviving my memory on the subject, and am therefore able to add something to my former statements. Funds were sent to B. S. Noble, of Iowa, as before stated; funds were intrusted to a Mr. Gurley, at one time United States attorney for the district of Iowa; something was handed to Colonel William Penn Clark, now in the city, and also to Colonel T. H. Stanton, of the United States Army, to reimburse expenditures made by them on my account. Three hundred dollars were sent to T. S. Woolson, a member of the State senate, who resided at Mount Pleasant, Iowa, the place of my residence, with instructions to use so much as might be necessary to pay hotel bill, carriage hire, services of messengers during the contest, over two hundred dollars of which, however, he afterward returned, stating that he had needed but little.

And I have an impression, amounting to almost a conviction, that a part of these funds went into the possession of Elijah Sells, through the hands of other parties, without Sells knowing the source from which it came. But I have not yet been able to trace it. There were others

whose bills were paid and who disbursed funds to defray expenses attending this election, which I am unable to particularize at this distant date. And as an apology for this inability I trust I will be pardoned for stating that I was at the time taxed to my utmost capacity, day and night, with the business of the Interior Department, as, I think, the most perplexing position connected with the Government, immediately following the close of the war, when we were resuming our relations with one-third of the States of the Union and the great Indian tribes of the Southwest involved in the rebellion. So that I was unable to give much thought to what then seemed to me to be so small a matter as the choice of a United States Senator, I believing that if not elected I could remain in the Cabinet, the President being at that time in harmony with the republican party, and no necessity for my resignation at the time being apparent.

In further reply to the question propounded by the committee through Mr. Stockton, "For what purpose was this money subscribed; what did they do with money in the election of Senators in Iowa?" I will explain that my knowledge on the subject was chiefly derived from friends until a year since last winter. But from representations made to me by personal and political friends during the contest in Iowa preceding senatorial elections I have learned that the friends of republican candidates for the Senate exert themselves, first to carry the State, and particularly the State legislature, for the republican against the democratic candidates; secondly, to secure the nomination and election of friends of their choice for the United States Senate; thirdly, after the date of the election of the members of the legislature, they endeavor to ascertain how a majority of their political friends among the elected stand as regards their favorite. This sometimes involves in a State as large as Iowa, and as inaccessible as a great part of it was in 1865, by railroad or other public conveyance, very considerable expense for travel.

This was so, as I was informed by my friends, in 1865, I having said to them that I did not wish my name used before the legislature unless its use in that connection was found to be in harmony with the unbiased wish of at least a majority of the republican members elect. Some of the friends who undertook to ascertain these facts paid their own bills and would not accept any return; some were unable to do so, and very properly permitted others to pay these bills. And further, very considerable expenses are often incurred by the friends of the rival candidates on their way to, at, and returning from the capital during the early part of the session and preceding the election of United States Senator, that have been considered in Iowa, and, as I suppose elsewhere, perfectly legitimate. Friends of candidates in the different counties rush to the capital, generally uninvited, but sometimes in pursuance of requests, "to keep their members right," as they call it, if supposed to be right; or if inclined to vote for a candidate distasteful to themselves or the people of their locality, to persuade them "to get right." Their presence induces the friends of opposing candidates to hasten to the scene of action to rescue by their presence and influence the imperiled cause of their respective favorites for United States Senator. Thus the capital city is filled with prominent and influential citizens from all parts of the State, amounting to many hundreds, and sometimes to many more. These visiting friends often find the expense of travel to and from the capital, and of living during their stay, much greater than they anticipated, get out of means, and are supplied by other friends who happen to have a surplus, or from a common fund,

contributed in advance, if any such exists. And others come expecting to have their bills paid and to have a good time generally. The committee will perceive that two or three hundred dollars apiece for such expenses for a score or two of persons, or a few dollars apiece for expenses of several hundred persons, would necessarily absorb several thousands of dollars. It was to meet these expenses incurred in the winter of 1865–'66, by my friends at Des Moines, that a considerable part of the money derived from the Durant checks, as well as other funds, as I was informed, was applied. Some of these bills were paid, or the parties re-imbursed, after the senatorial election was over.

I trust the committee will be able to understand, from the foregoing statements, the difficulty, if not impossibility, of tracing the application of funds used under such circumstances by my friends so many years afterward.

I desire to aid the committee to the extent of my ability in the performance of their duty by disclosing fully all I know about each subject of legitimate inquiry. But as some of the questions propounded during the latter part of my examination, on yesterday, seemed to me to imply a purpose to inquire into my conduct in relation to matters which appear, to my mind, as outside of what I had supposed to be the legitimate purview of the original inquiry and leading to an examination of my conduct in another official position, as stated by the members of this committee propounding some of these questions, I think I ought not to be interrogated further as to these points until I have an opportunity to know what the supposed offenses are, and to be confronted with the witnesses by whom it is expected to support them; all of which, embraced within any legitimate inquiry on the part of the Senate, I shall expect to meet promptly and fully with overwhelming rebutting testimony, to the entire satisfaction of every Senator and every fair-minded citizen of the country.

By Mr. SCOTT:

Q. You say in your statement that it is probably one of these checks which was deposited. If so, would you be able to ascertain the date of the deposit from your bank-account?

A. I think I would, but I have not had time to make that search. I spent nearly all of last night looking over my letters and correspondence.

By the CHAIRMAN:

Q. Have you been able to refresh your recollection as to the time when you were in New York?

A. O, I was there several times during the summer and autumn.

Q. I mean that particular time?

A. I have not. I have not found any letter or any memoranda giving the date, but I remember I was there late in the autumn or during the early part of the winter. I think it altogether probable that the check I spoke of yesterday may have been cashed at that time. It may have been cashed at an earlier period.

Q. That is to say, you are in the same state of uncertainty as you were yesterday as to the particular time?

A. I have a strong impression that it was later than I supposed on yesterday.

By Mr. STOCKTON:

Q. About what date do you fix it in your written statement to-day that you were in New York and made that visit?

A. I state that I have an impression on my mind which I feel almost certain about, that I was there late in the autumn, or during the early part of the winter, and I could not fix the date nearer than that. I think it is very likely, however, that I can ascertain by making a further search.

Q. How long was the interval, do you suppose, between the reception of those two checks, as near as you can tell?

A. Well, sir, I would not be able to say how long. I think very likely some weeks, and possibly a month or two. And yet I could not testify about that. I intend to examine my bank-account, and it is possible I may ascertain the exact date.

Q. Where did you keep your bank-account at that time?

A. I kept at more places than one, but chiefly at the First National Bank in this city, though I kept an account at my home, Mount Pleasant, Iowa; and then sometimes I had funds deposited elsewhere.

Q. You stated the last time you were on the stand, if I remember rightly, that you had no recollection of ever receiving but one check, and you spoke in your written statement to-day as if you had received two checks. Have you refreshed your memory on that point?

A. I did not intend to say that I had no recollection of it. I stated that I did not remember distinctly about that check, but I had an impression, of course, that it had come, partly because Dr. Durant had said so in his testimony, and had previously said so to me, and I had reason to believe that it did come, and think it came, but I did not remember it with a distinctness so as to fix it and to give testimony in relation to what disposition was made of it at the time.

Q. You do not remember, and cannot recollect, then, in reference to the one check you spoke of on yesterday. You said you thought the money on that New York check was given to you in currency?

A. Yes, I think so; I am almost sure of that.

Q. The other one you think was deposited?

A. That is an impression on my mind growing out of this fact. I do not remember ever cashing it and receiving currency for it. Five thousand dollars to me would be a sum that, if I received it in currency, I would be very likely to remember, for a while at least, though this would be about seven years ago, I believe.

Q. Where would you likely have checked upon it?

A. Wherever I deposited it. It is possible I may have deposited it here in the First National Bank, if I deposited it at all, and it is probable that I would check against it there, wherever it was deposited.

By Mr. STEVENSON:

Q. The only check that you remember was signed by Crane, I think you say?

A. Yes, sir; that is the only one I have a distinct memory of.

Q. I understand the only one that you remember was Crane's?

A. Yes, sir; distinctly.

Q. Have you a distinct remembrance that it was the Crane check that you got cashed in New York?

A. Well, no; I have not. I have thought of them since the adjournment of the committee. I am not sure about that. It may have been the other check. One of them was cashed there.

Q. Have you been able to recall to your mind whether it was summer or autumn that you were in New York when you received the currency on the check?

A. No, sir. I cannot say whether it was in the autumn or the—winter, did you say?

Q. No; summer.

A. I have the impression now that I was there either in the autumn or winter.

Q. You said yesterday that it might have been summer, autumn, or the edge of winter?

A. Yes; but on reflection, thinking the matter over, I have a very strong impression that it was probably late in the autumn, or in the early part of the winter.

Q. You stated, in reply to a question from me, that you did not think after you came back into the Senate, and after the reception of those checks, that you were called upon as a Senator to act in any important matter in which the Pacific Railroad, or any of its branches, were concerned. I understood you to say so.

A. I intended to say, and I find the report of the testimony shows, that I mentioned several bills that were passed by Congress after I returned to the Senate. I do not remember any personal participation in it, but if I was in the Senate Chamber I have no doubt at all that I did participate and voted on one side or the other. I do not know any reason why I should not.

Q. I wish to call your attention to the fact—of which I know nothing, and have not examined it at all, and have no information about it—of whether there was or was not a controversy before the Pacific Railroad Committee of the Senate, or the Joint Committee, as to the removal of the office from the city of New York to the city of Boston?

A. There was.

Q. Was not that a matter of a good deal of feeling?

A. Well, I cannot say about that. I do not remember whether feeling was manifested or not. There was a dispute between certain parties who had been controlling the business of the company, and those who were coming in—the new management, I think they called it.

Q. What did Dr. Durant want?

A. Well, sir, I do not know what he did want.

Q. I mean did he desire to retain the office at New York, or was he in favor of removing it to Boston?

A. I do not know, sir. I do not remember now. I may have known at the time, but I do not now.

Q. Were you a member of the Committee on the Pacific Railroad at that time?

A. I think I was. I am not positive about that. The records will show. I have been a member of the committee for a long time.

Q. Do you remember now how you voted?

A. I do not.

Q. You have no remembrance of voting at all?

A. I do not remember of voting at all on any of those bills. I never charge my memory with my votes. I vote as I think I ought to at the time and let it go.

Q. You nave no remembrance that at that time the copy of one of those checks, or the stubs of the check-book, was shown to you by anybody—by Durant or anybody representing him?

A. I do not remember to have seen Durant during the time. I have no memory of it, and I may say further, I do not believe they ever were. I believe it is a manufactured statement by whoever has communicated the suggestion. That is my conviction.

Q. The person who suggested it to me was not cognizant, I understand, of the fact. I do not know that he was so. If I knew the witness I would tell you his name.

A. I think I ought to state in that connection that my memory might be revived by any incident connected with it so that I might remember it. I might have seen them, but I have no memory of it, and I do not believe I did.

Q. In order to refresh your memory, were you not absent from the committee-room when this question was pending; was not the committee equally divided, and were you not urged to go to the committee and vote in favor of the removal?

A. I have no memory of any such thing.

Q. And pending these applications to urge you to go I will ask you whether the stubs of the check or the check itself was not shown you?

A. I am quite sure no such transaction ever occurred. And I will state further in that connection, that I never was purposely absent from my post of duty, either on a committee or from the Senate, with a view of avoiding a vote.

Q. You do not now remember whether you did vote at the committee on that question?

A. I do not, sir.

Q. You do not remember whether you voted at all?

A. I do not.

Q. Do you remember whether you were in favor of the removal or opposed to it?

A. The inclination of my mind was in favor of the removal. I had got an impression that the judges in New York were not reliable. That was the inclination of my mind. I remember that very distinctly.

Q. Do you remember that Mr. Durant, or persons representing him here, were exceedingly anxious to get rid of a Mr. Barnard, a judge, and the influence of Mr. Fisk, and that Durant and those who employed him were actively engaged to get rid of Barnard and Fisk to get that removal?

A. No, I do not remember ever conversing with Dr. Durant on the subject.

Q. No, no. I said those representing him.

A. I do not remember that anybody ever conversed with me on that subject, except Oakes Ames. I knew that he was very anxious to have the office removed to Boston. He made no secret of it at all. He was constantly in the Senate Chamber while the bill was pending, and being a member of the House, I did not hesitate to converse with him.

Q. You have no remembrance that anybody representing Durant, or telling you Durant desired it, urged you to go to the committee?

A. I do not, and yet somebody might have done so. I am not inaccessible to conversation when a person calls to see me, and they may have conversed with me on the subject. If so, I would doubtless have listened to them patiently.

Q. But you have no remembrance of any copy of this $5,000 check, or either of them; the check-book with the stubs; copies of the check, or the original check endorsed by you, or copies of the stub, were shown to you by anybody, pending that application before the committee?

A. I have no such memory, nor do I believe they ever were.

Q. If it had been done you would have remembered it, you think?

A. I think so, sir. I think I should.

By Mr. SCOTT:

Q. As a good many questions have been put to you with reference to this transaction, I will endeavor to refresh your memory, with a view of recalling something about it, as I was a member of the Pacific Railroad committee myself at the time, and with you, I do not remember on which side of that question I was at the time. Do you remember the fact that Mr. McComb was examined as a witness before the Pacific Railroad committee at that time?

A. I do not.

Q. And also several persons opposed in interest, whatever that contest was, to Mr. McComb?

A. Well, I remember that the matter was pending in the committee for some time, and that there was considerable inquiry on the subject, and a good deal of talk among the members of the committee on the propriety of the change, as to the general policy of it, and the necessity of it, but I have no distinct memory of any specific transaction, in the committee or outside of it—the committee—in relation to it.

Q. Do you recollect that quite a number of printed pamphlets on both sides of the question, showing the pending litigation at that time in New York, were before the committee, and argued before the committee, I think, probably by counsel on both sides?

A. Well, I have no doubt it was so, because they printed their arguments so frequently, and I know that very often there were printed arguments laid on our table in the committee-room, in relation to each side of the various questions pending.

By Mr. STEVENSON:

Q. Were you ever threatened about the time that I alluded to, in any way, with the exhibition of these checks by anybody?

A. Not that I remember. I do not think anything of that kind ever occurred.

SATURDAY, *February* 15, 1873.

General H. V. BOYNTON recalled.

By the CHAIRMAN:

Question. Were you present when some statements were made regarding certain checks?

Answer. Yesterday, do you mean?

Q. Yesterday or to-day; certain checks which had been supposed to have been exhibited?

A. I heard Mr. Senator Harlan's statement in reference to that matter yesterday.

Q. Do you know of your own knowledge anything about those checks?

A. No, sir.

Q. Do you know of your own knowledge of any person who does?

A. I will say this to the committee——

Q. No; answer the question.

A. Well, I suppose Senator Harlan does, from the statement that you heard here yesterday, sir.

Q. No; but I mean about the presentation of the checks.

Mr. SCOTT. The witness misapprehends the checks you are inquiring about.

The CHAIRMAN. I think he does. [To the witness.] Were you not here this morning when Senator Harlan was asked whether these checks, or stubs of these checks, or copies of them, had been presented to him?

A. Yes, sir.

Q. That is what I mean to inquire about. I repeat the question, whether you know anything of your own knowledge about that?

A. Nothing from my own knowledge, except what I have gathered from the testimony of Dr. Durant and the statements made.

Q. Do you know of your own knowledge anything about these stubs, checks, or copies of that check, or of either of them, having been presented to Senator Harlan?

A. No, sir; of my own knowledge I have no information. I mean that I have no personal knowledge in regard to checks, or stubs, or copies.

Q. Do you know of any person who does? Can you give us the name of any person who knows whether those checks or stubs were ever presented?

A. I did not understand that question. No, sir; I do not know, of my personal knowledge.

Q. You do not know the name of any person who knows that?

A. I do not, sir, as to absolute personal knowledge. I suppose I have understood the purport of those questions. The first answer that I made I did not seem to understand your question.

Q. Do you wish me to repeat it?

A. No, sir; but I only wish to guard myself if I have misunderstood you.

Q. Repeat what you understood me to inquire.

A. I understood you, in the first instance, to ask me whether I had any personal knowledge of these checks. I replied that I had none. Then you asked me if I had any personal knowledge of their ever having been called to the attention of Mr. Senator Harlan, and to that I say I have no personal knowledge.

Q. Then I ask you further, whether you know of any person who does know that they were presented to Senator Harlan?

A. I have no absolute personal knowledge of that.

Mr. SCOTT. Mr. Chairman, permit me to suggest that the question may mislead the witness as to the original presentation of the checks. The questions which were put to Senator Harlan assumed that the checks, or the stubs of the checks, had been exhibited to him, to influence his action upon a committee, and it is in reference to the presentation of the checks, or stubs of checks, for that purpose that this inquiry is made. I say this so that the witness can understand the point of time to which the inquiry is directed.

The CHAIRMAN. Yes; I assumed that the witness was present when the question was put to Senator Harlan. [To the witness.] You understood me to refer to that?

A. I published the statement, but not on personal knowledge. I suppose that answer covers it.

Q. And you understand to what my inquiry relates, do you not?

A. Yes, sir.

Adjourned to Monday, February 17, at 10.30 a. m.

MONDAY, *February* 17, 1873.

The committee met at 10.30 a. m.

L. P. MORTON sworn and examined.

By the CHAIRMAN:

Question. Mr. Morton, in some testimony given before this committee, reference has been made to a transaction supposed to have taken place

between yourself and Mr. Patterson in regard to Credit Mobilier stock. State whether, or not, you have held for him, either directly or indirectly, any such stock. Please state whatever transactions you have had with Mr. Patterson in each connection, if any.

Answer. I find we have had no transactions whatever with Senator Patterson with reference to Credit Mobilier stock. He addressed a letter to me in December, I think, inquiring if we had ever bought, sold, or held for him any stock in the Credit Mobilier, to which I replied that we had not. A few days since, we discovered in our safe an envelope containing thirty shares of Credit Mobilier stock which we were unaware of before, and I so advised him last week and sent him the certificate.

Mr. SCOTT. In his name?

A. The certificate is indorsed by Mr. Ames, to J. W. Patterson, or Morton, Bliss & Co.

By the CHAIRMAN:

Q. Was there any date on that certificate—on the indorsement?

A. Not on the indorsement.

Q. You sent that to Senator Patterson?

A. We sent it to Senator Patterson a few days since.

By Mr. STEVENSON:

Q. How long ago?

A. Within a few days; this last week.

By the CHAIRMAN:

Q. Do you know how that came into your possession?

A. I do not positively. My impression is, it was handed us by Mr. Ames. It was left there and placed in an envelope in our safe, and never having had any money transaction in connection with it, we merely placed it, as we do securities which are left with us for safe-keeping, in our safe.

Q. You considered it left with you for safe-keeping?

A. We did.

Q. Are you able to state precisely when it came into your hands?

A. I am not.

Q. You made no memorandum of it?

A. I made no memorandum of it.

Q. Do you remember who the stock is issued to on its face?

A. "Oakes Ames," or "Oakes Ames, trustee;" I am not sure which.

Q. Are you not in the habit of keeping a memorandum of such special deposits?

A. Well, we oftentimes have envelopes and parcels left with us for safe keeping, of which we take no record. Of course, anything that cames to us in the way of business, where money transactions are involved, or securities handed to us for sale, they would be duly recorded.

Q. Have you ever had any conversation with Senator Patterson on the subject of that trust?

A. As I stated, he addressed me a letter in December, and on his way to or from New Hampshire subsequently, in January, I think, we had some conversation with reference to it. We were both of us, at that time, entirely unaware that this certificate of stock was in existence or in our possession, and I think he was quite unaware that such a certificate was in existence.

Q. When did you communicate the fact to him?

A. That we had found the certificate?

Q. Yes, sir.
A. Last week.
Q. Last week?
A. Yes, sir.
Q. And sent the stock?
A. And sent the stock.
Q. By mail?
A. By mail, yes, sir.
Q. Was there any reply?
A. No, sir; the certificate with it was mailed about the middle of the week, and I have been out of town, myself, since. When your summons reached me I was in Philadelphia, and I came over here Saturday night. I have not been home since.
Q. Have you had any conversation with Oakes Ames on that subject since that was put into your hands?
A. I have not until yesterday, when I met him at the hotel, and we exchanged a few words on the subject.
Q. Was that stock received through you, or through some of your firm?
A. It was received by some of our firm, or some one in our establishment.
Q. Are you able to say which one?
A. No, sir; I am not; I do not know.
Q. Have you any means of telling about what time it came into your possession?
A. There is a memorandum, I think, on the envelope which we sent to the Senator, containing the certificate, which, perhaps, might give some clew to the date when we received it.
Q. Do you remember what that was?
A. I do not specially. I think it is marked. I think J. W. Patterson's name is on the envelope, and I think there is a date, of May, 1871. That is my impression, but I cannot state positively. The papers will show for themselves.
Q. Had you any transaction with Mr. Patterson or Mr. Ames growing out of that deposit?
A. None whatever.

By Mr. SCOTT:

Q. Did that envelope reach your firm by mail—the one in which you found the certificate?
A. No, sir; I think not.
Q. Was there any postmark upon it?
A. No, sir. The certificate was evidently placed in this envelope in our office.
Q. It was not the envelope in which it reached your office?
A. No, sir; evidently not.
Q. Have you any envelope in which this certificate reached your office?
A. No, sir.
Q. You do not know whether it reached you by mail, or whether it was left there, and put in the envelope?
A. No, sir, I do not.

By Mr. WRIGHT:

Q. Was the envelope sealed?
A. It was not.

By the CHAIRMAN:

Q. You say it was evidently placed in an envelope in your office. How do you arrive at that conclusion?

A. I mean, if you should bring us a certificate of stock as your property, and it was left with us for safe-keeping, we should fold it, and put it in an envelope, and put your name on, and place that in our safe; put the name of the party whose property it was on it, from whom we received it, or for whom it was intended.

Q. In whose handwriting was that?

A. One of the clerks in our office; I think a former cashier.

Q. I did not know but there might be something in the character of the envelope itself which indicated it was of the kind you used yourself in your establishment.

A. It was evidently one of our usual style of envelopes.

By Mr. STOCKTON:

Q. Do you know the name of that clerk whose handwriting is on the back of it?

A. I do not remember his name.

By Mr. SCOTT:

Q. But you say that envelope you transmitted with the certificate to Senator Patterson?

A. Yes, sir; Senator Patterson has the two. They will show for themselves.

By the CHAIRMAN:

Q. Is that clerk who indorsed that paper in your employ at the present time?

A. I think not. I could tell better, perhaps, if I saw the envelope; but my impression is it is in the handwriting of a clerk who is not now in our employ. But there is no material bearing about that. The certificate was evidently handed to us. I do not think it came by post. I do not think that is at all probable. It was handed to us; placed in this envelope and put in our safe, indorsed, as I have stated, in the handwriting of Mr. Ames, with which I am familiar, "Pay to ———" "or transfer to Hon. J. W. Patterson, or Morton, Bliss & Co.," signed "Oakes Ames," without any date.

By the CHAIRMAN:

Q. Have you any means of knowing whether that was done at your office, either by Mr. Patterson, or otherwise?

A. No, sir; I have not. I should think not. That would be my inference from the appearance of the certificate.

By Mr. WRIGHT:

Q. You say there was no account kept of that stock?

A. No record whatever. We were entirely unaware that we had it, as I wrote Mr. Patterson in December, and stated to him in January subsequently, that we had never received any stock. It was not with reference to any certificate that his inquiries were made. He wanted an answer from me whether we had ever had any transaction with or for him in Credit Mobilier stock. I stated unhesitatingly that we never had for him or any one else.

Q. Where stocks or security should be left with you in an open envelope is your custom to open an account with the person thus leaving

it, or does it make any difference whether the envelope should be sealed or otherwise in that respect?

A. That would depend very much on circumstances. If securities were left with us for sale they would be recorded in our books of daily use, with the instructions as to prices, &c.; but frequently parcels are left with us merely for safe-keeping, as boxes are left at a bank. We assume no responsibility except——

Q. Where left for safe-keeping it does not make any difference whether the envelopes are open or not; you are not in the habit of opening an account with the person?

A. No, sir; ordinarily not, under such circumstances.

By Mr. SCOTT:

Q. The certificate is originally issued to "Oakes Ames," or Oakes Ames as trustee, as I understand you?

A. Yes, sir.

Q. Had you any business transactions with him in the course of which this certificate could have come into your office?

A. We have had frequent business transactions with Mr. Ames, but none with reference to any shares in the Credit Mobilier.

By the CHAIRMAN:

Q. Had you in regard to Union Pacific?

A. We have had; yes, sir.

Q. Have you spoken of all the transactions between you and Mr. Patterson, either in regard to the Credit Mobilier, if this be a transaction, or the Union Pacific?

A. I do not quite understand you, sir.

Q. In other words, I will ask you direct whether you had any transactions with Mr. Patterson in regard to Union Pacific stock?

A. We have had. I think he handed us, as my memory serves me, three hundred shares of Union Pacific stock which we sold for his account.

Q. When was that?

A. My impression would be 1871. We also, I think, received Union Pacific bonds from or for him, for his account. My recollection is that he handed us bonds and shares of the Union Pacific Railroad Company, requesting us to sell them at our discretion on a favorable market, which we did for his account.

Q. You say those were received from or on his account; can you tell which?

A. My impression is that we received them directly from him.

Q. The bonds?

A. The bonds, and the shares of the Union Pacific Railroad Company. My impression also is that this certificate of the Credit Mobilier stock was handed to us, or left with us, by Mr. Ames.

Q. That was in the year 1871?

A. Yes, sir; that would be my impression; in 1871, I should think.

By Mr. SCOTT:

Q. Is it your impression this indorsement was upon it at the time he left it?

A. O, undoubtedly. The certificate has evidently never left our office or been disturbed since the time it was received; it has remained there in its original condition.

Q. Could you state your recollection of the date in May, 1871, on which that indorsement is made?

A. No, sir; I cannot. I think there is a memorandum on the envelope.

By Mr. STEVENSON:

Q. I understand you were not present when Mr. Ames left these thirty shares of Credit Mobilier?

A. I was not aware of it at all until within the last few days.

Q. You think it was not sent by mail?

A. I think not. Mr. Ames was frequently in our office in New York.

Mr. STEVENSON. I think Mr. Ames testifies pretty thoroughly on that subject himself. I suggested the other day he told me that these thirty shares were with Morton, Bliss & Co.

Mr. SCOTT. He states that, I think; but he was somewhat uncertain as to the date.

Mr. STEVENSON. Yes. I do not think he remembers the date; but I think he states a good deal in regard to it.

By Mr. STOCKTON:

Q. We would like to ascertain more certainly. Then you do not know who did leave this stock with you. You say it is your impression it was Mr. Ames. Can you give us the name of some person who would recognize that handwriting, or of somebody who would identify how it came into your possession, and who it came from?

A. I do not believe it is possible for us to establish that fact, the certificate having been there for some years. Mr. Ames is in our office very frequently, and we have been for the past few years in business communication with him personally, and it is a thing of almost daily occurrence that securities are left with us by parties doing business with us; put in our vault over-night, if you please, and they might remain for a longer period of time.

Q. You say that your impression is that Mr. Ames left that stock in your vault, but that is only an impression on your mind. You have given no reason and you have not stated that you knew it to be so.

A. No, sir.

Q. The handwriting of the person who indorsed it upon the envelope coming from your office as proof——

A. That would not indicate anything.

Q. It would indicate who took the certificates?

A. Excuse me; no, sir, it would not, because it might be handed to one of a half-dozen clerks; for instance, I might have received the certificate from Mr. Ames, and he hand it to Mr. Smith, Mr. Jones, or anybody in our office, and ask him to put that in an envelope, and make a certain memorandum upon it.

Q. Well, let us get at it in another way. I think you said you did not know whose handwriting it was, but you thought it was that of a clerk who had left you?

A. That is my impression; when I see the handwriting, I think I can recall it.

Q. How long do you suppose that clerk has been out of your employ?

A. If it is the one I have in mind, (and I cannot recall the name now,) he is a man who was assistant cashier for us, and temporarily cashier. I should think it was some two or three years since he left us.

Q. You have other clerks who have been there a much longer time, and who are still with you, I suppose?

A. Yes, sir.

Q. How many clerks do you employ?

A. Well, I do not know myself. I should think twenty or thirty in the office.

Q. You have a good many who have been there and were there at this date which we are trying to ascertain?

A. Yes, sir; but this would happen to be a transaction which scarcely any one in the office you know; if anything came in the ordinary course of our business, and went through our books, the records would pass through the hands of different people.

Q. But there must be many people in your office who know this handwriting?

A. O, certainly; yes, sir.

Q. Now, will you be kind enough to give me the name of some person in your office who does know that handwriting?

A. I think I can give it to you myself, if Senator Patterson comes with the envelope.

Q. Yes; but can you give me the name just now of some old clerk of yours who would be likely to know that handwriting?

A. I think our chief book-keeper, Mr. Weiss, would know the handwriting, or almost any one in our office who was there at the time would recognize the handwriting.

Q. Just mention one or two, if you happen to think of them, who would do so.

A. Mr. John Barker.

Q. What was about the date, as well as you can tell it, in which the letter was put in the mail sending the certificate to Senator Patterson?

A. I should think on Wednesday of last week; on or about Wednesday last.

By Mr. STEVENSON:

Q. Was there any reply to any member of your firm acknowledging the receipt by Senator Patterson of that stock?

A. The letter was dictated by me and signed by me, and I have not been in New York since the date of its execution.

Q. You do not know that Senator Patterson has ever written to your firm since you sent him that stock?

A. I do not.

By Mr. SCOTT:

Q. Mr. Morton, the date of receipt here prompts one or two questions. I find on the 6th of May, 1871, at Boston, a receipt of Mr. Patterson, to Oakes Ames, for other securities. Was there any Union Pacific Railroad stock deposited with your house in May, 1871, by Mr. Patterson?

A. I could not state under oath the date, but, as I have before stated, we received the Union Pacific shares from Senator Patterson, I should think, about—during 1871.

Q. After May, 1871, did your house furnish accounts-current to Senator Patterson at any time?

A. I should think so. We have had very little business with him.

Q. Did he make any inquiry with regard to Credit Mobilier stock after receiving those accounts-current?

A. The only inquiry he has ever made was in December, when he addressed this letter to which I have made previous reference; and, also, in a personal conversation which I had with him upon his return from New Hampshire, I should think, in the month of January, 1873.

Q. Have you any knowledge of any other inquiry made by Senator Patterson with reference to the Credit Mobilier stock which you have referred to as made in December?

A. None except within a week or ten days. He asked me several categorical questions with reference to any facts bearing upon the present investigation.

Q. Could you, without reference to your price-list, tell us the market-value of Union Pacific Railroad stock in January and February, 1868?

A. I do not think there was any market-value for it at that time.

Q. Do you remember the market-value of the first-mortgage Union Pacific bonds at this date, January and February, 1868?

A. I do not. My impression would be in the neighborhood of ninety at that time, between ninety and something over ninety.

By the CHAIRMAN:

Q. In this account-current, which you say you stated with Mr. Patterson, was any account stated of the Credit Mobilier stock?

A. None whatever. The name does not appear upon our books. We searched them very carefully from beginning to end, at his request, to know if we had ever had any transactions, and the name does not appear anywhere in any connection.

The examination of the witness was here suspended.

OAKES AMES sworn and examined.

By the CHAIRMAN:

Question. I will ask you whether at any time you left with Mr. Morton, or with his firm, any Credit Mobilier stock for any particular purpose; and if so, when, and for what purpose?

Answer. I have no recollection of ever leaving any there.

Q. He finds thirty shares of Credit Mobilier stock in his possession, with your indorsement upon it. Can you account for that?

A. I indorsed it over to Mr. Patterson, I believe.

Q. When you say you indorsed it over to Mr. Patterson, you mean to say that you delivered it to Mr. Patterson?

A. Yes, sir.

Q. Can you tell when?

A. I cannot.

Q. Where?

A. I think in Boston. There is one of those receipts of Mr. Patterson's which, I suppose, gives the date. There is one of the receipts where it says there is due him some bonds and stock, and I suppose I gave it to him at that time. I have no recollection other than that.

Q. There is a receipt here of May 6, 1871.

A. That must have been the time, I think, sir.

Q. Do you mean to say that your recollection about that is distinct?

A. Yes, sir. I have no recollection of anything else but that.

Q. Do you recollect that?

A. O, I recollect that I gave him the stock.

Q. At that time?

A. The receipt would show so.

Q. No; but independent of the receipt, I wish to know whether you have a recollection.

A. It is my impression that I gave him the stock a long while before, but still I do not know.

Q. A long while before that?

A. It was my impression that I gave him the stock when I gave him the first dividend, or before.

Q. When was that?

A. The first dividend was in February, 1868, but still I do not know. My memory is at fault. I cannot recollect the dates, and never could.

Mr. STOCKTON. That envelope ought to be produced before we proceed with the examination.

WITNESS. I saw that envelope. Mr. Patterson showed it to me the other morning.

Q. What morning was that?

A. I guess Thursday or Friday of last week. It was the morning he received it from Morton, Bliss & Co.

Q. State what took place when he showed it to you.

A. He said that he was mistaken. He thought he had never had the stock, but he found that he had; that he had a letter from Morton, Bliss & Co., saying that they had found it in their safe, and he came in to rectify his statement to me, saying that he found he was mistaken; that I was correct about it; that I had delivered him the stock.

Q. Where did that conversation take place?

A. In my room, at the Arlington.

By Mr. STEVENSON:

Q. As near as you can recollect, give us the date of your first conversation with Mr. Patterson, touching his purchase or proposal to purchase Credit Mobilier stock.

A. I cannot recollect at all, but I find on my memorandum-book that he paid me for that stock on the 31st day of August, 1867. He paid me three thousand dollars, to be invested in Credit Mobilier stock.

Q. On the 21st day of August, 1867?

A. Yes, sir.

Q. Did any conversation take place between you and Mr. Patterson when that $3,000 was deposited? If so, give it to us.

A. Well, sir, I cannot recollect.

Q. Did he tell you what the $3,000 was for?

A. Why, of course. I entered it on my book, and credited him with $3,000, to purchase thirty shares of Credit Mobilier stock, as near as I can remember. It is in this book, somewhere in my testimony, (referring to House committee testimony.)

Q. But my question is, "Did Mr. Patterson, when he gave you the $3,000, tell you that that was to be invested in the Credit Mobilier stock?"

A. Well, I cannot remember what he told me, but that is what the money was given to me for. I cannot remember the conversation at all. He must have known what it was for. He would not have given me $3,000 without some indication of what was to be done with it. probably, but the conversation I cannot remember.

By Mr. STOCKTON:

Q. Mr. Ames, did you ever deposit any Credit Mobilier stock in the vaults of Morton, Bliss & Co?

A. I have no recollection of it, sir.

Q. Mr. Morton is under the impression, although he does not recollect, that that thirty shares of stock in the envelope was left there by you. Can you recollect anything about it, whether you ever did do that or not?

A. No, sir; I have no recollection of ever doing it. It might have been, but I have no recollection of it?

By Mr. WRIGHT:

Q. Did you have any conversation with Senator Patterson about the

investment of money in the Credit Mobilier stock prior to the receipt of the $3,000?

A. I presume so; and I think I must have had.

Q. Do you remember how long before?

A. No, sir; I do not.

Q. The result of that conversation or conversations, prior to the payment to you of the $3,000, was that it was received and invested in this way?

A. Yes, sir.

Q. And you say that Mr. Patterson must have understood at the time that he let you have that $3,000 that it was to be thus invested, and, while you do not remember any conversation that took place at that time, you suppose it must have been so understood, because of prior conversations?

A. Yes, sir.

By Mr. STOCKTON:

Q. What day did you say it was that Senator Patterson called on you to tell you that you were right—that you had given him stock?

A. It was Thursday or Friday of last week.

Q. Did Senator Patterson say anything to you on that occasion to indicate how he had changed his mind on that subject?

A. He had this letter from Messrs. Morton, Bliss & Co.

Q. Did he show you that letter?

A. He showed me the envelope and the stock certificate.

Q. He showed you the certificate?

A. Yes, sir.

Q. In whose name was that certificate drawn?

A. It was indorsed in my handwriting, to be transferred to Mr. Patterson, or Morton, Bliss & Co. Both names were inserted.

Q. Both names?

A. Both names.

Q. Was there any date of that indorsement?

A. I did not notice any.

Q. Was anything said between you as to how that stock came into the vault of Morton, Bliss & Co.?

A. He said he thought I must have left it there, but I cannot bring anything to my mind to convince me that I ever did. I have no recollection of it at all.

Q. What was the value of that thirty shares of stock?

WITNESS. Now?

Mr. STOCKTON. No. I do not mean now. It would be a difficult matter to tell. What was supposed to be its value at the time you supposed you gave it to Mr. Patterson?

WITNESS. In August?

Mr. STOCKTON. Yes, sir.

A. We did not suppose then it was worth much, if anything, over par. I sold stock out in May and July previous at 95.

Q. In this Credit Mobilier?

A. Yes, sir. I sold to Gamaliel Bradford, of Boston, one hundred shares at 95, and gave him 5 per cent. to take it off my hands in May; and I sold S. T. Dana one hundred shares in July. I think I sold him one hundred shares, and gave him 5 per cent to take it off my hands, and lost the interest for some four or five months. This stock was not considered valuable until about September or October of that year.

By the CHAIRMAN:

Q. September or October of what year?

A. 1867.

By Mr. STOCKTON:

Q. What value did that stock reach at any time?

A. The highest I knew any sold was 200.

Q. That was about the time you speak of?

A. That was in January, I think. Mr. Alley sold five hundred shares, I guess, to Mr. Bardwell for $100,000. I think it was about $200 a share.

Q. Sold five hundred shares for how much, you say?

A. Well, it was $200 a share.

By the CHAIRMAN:

Q. How low did you ever know it sold?

A. I do not know. What I have sold I have sold at 95. I never sold any below 95 and never sold any above par; but the stock was offered at one time, in the spring of 1867, as low as 75. It didn't find a buyer, however.

By Mr. STEVENSON:

Q. When did you invest the $3,000 which Mr. Patterson handed you on the 31st of August, 1867? How soon after you received the money?

A. I suppose at that date.

Q. At that date?

A. Yes, sir.

Q. Did he ever give you any other money to invest?

A. He gave me some money to invest in first-mortgage bonds and stock of the Union Pacific Railroad; no, not first-mortgage bonds—income bonds.

Q. How much?

A. Four thousand dollars, I think.

Q. After you invested that first $3,000, did you inform Mr. Patterson?

A. Informed him that I had done so; I presume so. I cannot remember any conversation. I gave him his dividend in February. He must have known it was invested then.

Q. Had you handed him these thirty shares of stock before you gave him the dividend?

A. It was my impression that I had, but my recollection is at fault. I cannot tell you, as I cannot remember dates at all. I was very confident in my testimony the other day that I delivered him the stock.

Q. I understood you to say that this indorsement of these thirty shares found in the vault of Morton, Bliss & Co. was indorsed to J. W. Patterson, or Morton, Bliss & Co. Why did you put the name of Morton, Bliss & Co. in that indorsement?

A. At the request of Mr. Patterson, of course. I should never have put it in without his orders, on his stock.

By Mr. STOCKTON:

Q. What was the effect of putting Morton, Bliss & Co.'s name in? What was the object of it?

A. They might indorse the stock if they sold it, or he either. Either of them might transfer it.

Q. I want to ask you as a business man. It was with a view of enabling them to sell it?

A. Yes, sir. I suppose that to be the view. That could be the only object.

Q. Then this stock, indorsed in the way it is, must have been left with Morton, Bliss & Co. with a view that they might be called upon to sell it?

A. I do not know what Mr. Patterson's views were. I cannot testify as to that. I indorsed it in that way.

Q. You say it could not have been indorsed in any other way than with a view to permit them to control it?

A. Yes, sir.

The CHAIRMAN. Of course you do not know that.

A. No, sir; of course I do not know it. That is a supposition.

The chairman here announced that, in his opinion, Mr. Patterson should be present while the examination of the witness was being proceeded with, and the morning hour having arrived, the committee adjourned till 1.30 p. m.

1.30 P. M.

The committee met pursuant to adjournment.

OAKES AMES recalled.

Examined by Mr. SCOTT:

Question. In endeavoring to understand this transaction between you and Mr. Patterson, I find one or two things which I desire to have explained. On turning to page 265 of your testimony before the House committee, you are reported as saying to Mr. Patterson, "You paid me $3,000, in January, 1868." You now state that, upon referring to that memorandum-book, you find that the $3,000 was paid on the 31st of August, 1867?

Answer Yes, sir.

Q. Have you the memorandum-book with you containing that memorandum?

A. No, sir.

Q. Has it been by reference to the books, since that testimony was given, that you have discovered the real date?

A. Yes, sir.

Q. And the 31st of August, 1867, according to your book, is the actual date when the $3,000 was deposited with you?

A. Yes, sir.

Q. Coming now to the first payment which you made to Mr. Patterson, which I find by the receipt is on the 14th of February, 1868; you state, substantially, at page 265, that on that day you paid him the proceeds of the first-mortgage bonds that had been sold for him, less $105, the interest of the Credit Mobilier stock from the 1st of July preceding up until that date?

A. Yes, sir.

Q. His receipt of that date is for the proceeds of an 80 per cent. dividend in first-mortgage bonds. Now, what I wish to have explained is this: In the first place, if he had paid you the $3,000 in August preceding, why was the interest on the $3,000 charged from the 1st of July up until the payment of the indebtedness?

A. It must have been an error, sir. Have you got a copy of that receipt?

Q. I will turn to it. It is on page 352:

"WASHINGTON, *February* 14, 1868.

"Received of Oakes Ames two thousand three hundred and twenty-eight ($2,328) dollars for three bonds of the Union Pacific Railroad Company, sold for me, being a dividend of 80 per cent. in bonds on the stock of the Credit Mobilier of America, held by him as trustee on my account.

"J. W. PATTERSON."

That receipt is right, I suppose.

A. There is an error in that account.

Q. It is in reference to another subject that I call your attention to it, for the reason that I cannot understand it, and that is an 80 per cent. dividend in first-mortgage bonds.

A. Sold at 97.

Q. Now on page 40 is a list of all the dividends declared by the Credit Mobilier, running from the 26th of April, 1866, down to the 19th of December, 1868, which you state is correct, except as to the first three named, which you say were not dividends. That is April 26, 1866, April 1, 1867, and July 1, 1867.

A. Yes, sir; I think that dividend of September 3 is a duplicate of July 2. I think that is wrong.

Q. What I desire to call your attention to is this: the 80 per cent. dividend of first-mortgage bonds made July 4, 1868, and——

A. No, sir; it is January 4. It is printed wrong. It was declared in January and paid in February.

Q. The point I wanted to clear up from the printed statement was this——

A. That is an error, sir. It should be January instead of July.

By Mr. STEVENSON:

Q. January 4 instead of July 4?

A. Yes, sir.

Q. Eighty per cent.?

A. Yes, sir.

By the CHAIRMAN:

Q. That is the first dividend?

A. Yes, sir; the first dividend.

By Mr. SCOTT:

Q. Then that would explain what I wanted to know. I could not understand how a receipt drawn in February could be for a dividend declared in July.

A. That is printed wrong, sir. It is an error in the printed copy.

Q. According to the dividends which are on that page, excluding the three which you say were not dividends, if I am correct in my additions, they would make 515 per cent. in stock dividends, 230 per cent. in bond dividends, and one dividend of 60 per cent. cash.

Q. Does the receipt of the 6th of May, 1871, embrace a settlement of all the transactions between you and Mr. Patterson, including both the three thousand and the four thousand that he deposited with you, or is it only the Credit Mobilier transaction?

A. I think it is the whole of our transactions that we settled.

Q. The whole of them?

A. Yes, sir.

By the CHAIRMAN:

Q. Do you mean that all the transactions were settled up at that time?

A. The whole of it, sir.

By Mr. SCOTT:

Q. And that receipt, showing that he received two hundred shares of Union Pacific Railroad stock, $757.24 in cash, and that there was still due on the transaction thirty shares of stock in the Credit Mobilier of America, and two thousand in income-bonds of the Union Pacific Railroad, shows the whole transaction between you and him? I mean, shows the settlement of the whole transaction?

A. Yes, sir.

Q. Shares of the Union Pacific Railroad are $100, are they not, par value?

A. Par value, yes, sir.

Q. Had there been any railroad stock delivered to Mr. Patterson before that, as a result of the Credit Mobilier dividends?

A. I do not remember. I have no recollection of delivering any before.

Q. What was the par value at that time of the two thousand income-bonds?

A. I cannot tell you. They have been from about 29 to 85.

Q. Let me understand. The literal reading of the receipt would make two thousand shares. Does it mean that, or is it $2,000?

A. Two thousand dollars.

By Mr. PATTERSON:

Q. You mean par value?

A. Par value on the face of the bonds.

Mr. SCOTT. You don't know what the market value was at that time?

A. No, sir; I do not. They have been as low as 29, and, I think, as high as 85. I guess they are down now to about 70 or less than 70—63 or 64, may be.

Q. Can you distinguish at this time how much of that entire proceeding was the result of Credit Mobilier shares, and the result of the $4,000 investment? Now separate them so as to give us the different transactions.

A. The two hundred shares of Union Pacific was the result of his investment of stock and bonds; $757 he was entitled to, as you will see there, in July—to a dividend of the 75 per cent. in first-mortgage bonds, which there was a certificate for. They had not the bonds to give; but they issued a certificate for those bonds. They never had the bonds to give. Afterwards they were paid in income-bonds. The two bonds and the $757.24 was the principal and interest of that 75 per cent., or first-mortgage bonds. He would have been entitled to $2,250 first-mortgage bonds, which they never got, and received income-bonds for them. I think the $2,000 of income-bonds and the $700 in cash would pay him that 75 per cent.—the income-bonds and the interest on them up to that time. That is my impression. I cannot make it out in any other way. That was from the 75 per cent. dividend, or first-mortgage bonds. That $2,000 of income-bonds and the seven hundred and odd dollars in money I think was derived from the Credit Mobilier subscription. That is my impression.

Q. Then, if the $757, the two bonds, and the two receipts of February, 1868, and June, 1868, would not settle the whole of these dividends in the Credit Mobilier, the other portion would remain unsettled between you and Mr. Patterson?

A. Yes, sir. I probably delivered him the balance of his stock at that time. I think the Union Pacific stock, that is, thirty shares, would amount to about one hundred shares. That is my impression. I am not exactly sure.

Q. Would you not have taken a receipt for the whole if they had been any more than the two hundred?

A. I say I guess I delivered him what was due him, and that was the balance probably. That was the final settlement. But the two hundred shares was the result of his investment of the bonds and stock—the $4,000. I think that $4,000 was the proceeds of that, and not the Credit Mobilier.

Q. From the reading of this receipt, are you of the belief that the certificate for the Credit Mobilier stock had been delivered to Mr. Patterson before that date?

A. Well, I do not know. It is rather a mixed-up receipt; not very clear. But it is my impression that I delivered him the stock a long while before, but still I may not have delivered it until that date.

Q. I mean the receipt of May, 1871. There are still due on the transaction thirty shares of stock.

A. He never purchased but thirty shares, and it was probably delivered then.

The CHAIRMAN. That contemplates a subsequent delivery?

Mr. SCOTT. I call your attention to that language to see whether you are still of the belief that the certificate had been delivered to Mr. Patterson before that date.

A. Well, it is my impression, but still that receipt looks as though I was mistaken. He never had but one certificate that I know of of thirty shares. That is all he ever had from me.

The CHAIRMAN. I want to see if I understand precisely now how this particular transaction stands in regard to the Credit Mobilier. I understood it to be your impression, when you were on the stand before, although you did not state it as your recollection, but your impression, that you had delivered the Credit Mobilier stock prior to the first dividends.

A. Yes, sir. That was my impression from memory, but, as I told you, I cannot remember dates at all. I know I was confident that I delivered it, but I cannot tell when it was.

Q. Have you either a recollection or impression that, prior to the date of this certificate, on May 6, 1871, you had delivered this stock to Mr. Patterson?

A. That is my impression, but that receipt looks as though I was mistaken.

Q. Does this refresh your recollection so that you are able to say?

A. Well, I don't know that it does.

Q. Have you any recollection of the stock subsequent to that time?

A. No, sir. I have no recollection about it, only that I delivered it; but I cannot tell when. It might have been then, but it was my impression it was before. Still I may be mistaken.

Mr. PATTERSON. I would like to call your attention to one point. In your previous testimony in the House, you stated that I was entitled to one hundred shares of stock in the railroad, or the thirty shares of the Credit Mobilier stock?

A. I said about that; that was my recollection. I could not tell without examining or figuring it up.

Q. In reply to Mr. Black's question, that was the statement. This receipt recites that I received two hundred shares on that.

A. That is evidently a mistake; that is your recollection, is it?

Q. My recollection is, I received three hundred shares at one time, (and that is all I ever did receive,) and that covered both operations; that is what I testified to in the House, and what I testify now.

The CHAIRMAN. What do you say is the mistake about this receipt?

A. I said the receipt would look as though he did not have it until then; but it is my impression that he had it before.

By the CHAIRMAN:

Q. Do you mean to say that there is any mistake in the recital of this receipt; that at this particular time he had two hundred shares?

A. Well, it is my impression I gave him two hundred shares then, at that time.

Mr. PATTERSON. You gave me three hundred shares the only time that you ever gave me any stock in the Union Pacific Railroad, and it covered both operations. I never received any stock at any other time.

Mr. AMES. You had it all at that time, you think?

Mr. PATTERSON. The date I cannot tell you.

Mr. AMES. It is my impression the two hundred came of the bond transaction and the other hundred, making three hundred, was of the Credit Mobilier dividends. That is the way I supposed it to be.

By Mr. WRIGHT:

Q. Was there any reason, either because the certificate of stock in the Credit Mobilier was not then prepared, or you were not ready then to deliver it, why it should not have been delivered before the 6th of May, 1871?

A. I cannot tell you, sir. The stock was ready to deliver and I received some of the stock in December and January and February. I supposed that I delivered it to Mr. Patterson, but that receipt would look as though I had not done so until May.

Q. And there was never any transaction in connection with this stock except the thirty shares?

A. No, sir; that was all.

Q. You have no recollection of having delivered this stock to him after the 6th of May, 1871?

A. No, sir.

Q. Did you ever hold that stock for him any time as trustee, or by any agreement or arrangement between you?

A. I don't remember, sir, that I did. I took that stock. I had a large amount of stock in the Credit Mobilier of my own. I had promised that stock to various parties a long while before I got it—promised them I would get it for them if I could. We got the vote, I think, some time in September or October, giving me two hundred and fifty shares.

By the CHAIRMAN:

Q. What year?

A. Eighteen hundred and sixty-seven. That was to fulfill my engagements. I let parties whom I supposed I was under obligations to have that stock at the same price I took it at. I did not suppose that I was to make or lose anything; but, instead, it seems it get everybody into trouble, and myself with them. I supposed it was an honest transaction.

By Mr. STEVENSON:

Q. You said this morning that you thought those thirty shares of

stock, which were indorsed by you to J. W. Patterson, or Morton, Bliss & Co., were transferred in Boston to Senator Patterson; why do you think it was transferred in Boston?

A. The receipt is dated Boston, is it not? I think I brought that stock in from Easton and settled with Mr. Patterson in Boston.

Mr. SCOTT. The receipt is dated Boston, May 6.

A. That is the way I think it was. I think I brought that stock in from Easton. Mr. Patterson was in Boston, and I think I carried him the Union Pacific Railroad stock. The Credit Mobilier stock I had forgotten about. I was very sure that I delivered that in 1867.

By Mr. STEVENSON:

Q. Did you not, in your statement before the House, say that it was your impression this thirty shares of stock had been delivered to him in Washington?

A. Yes, sir; that was my impression, that I delivered it here at the time I delivered his dividend. I supposed I delivered the whole thing then.

Q. What I want to get at is this: Your statement now is, that it was delivered in Boston, and that statement is from seeing that receipt.

A. O, that is the only reason that I suppose it was delivered in Boston; and my impression now is that I delivered it before; but still it might have been put into that receipt in that way.

Q. Can you state positively that you never deposited this thirty shares of stock with Morton, Bliss & Co?

A. I have no recollection of it at all, sir; none whatever.

Q. Have you any remembrance of where you made the indorsement to Patterson, or Morton, Bliss & Co.; where was the indorsement made, in Boston, or where?

A. I think it was made at the time I gave that receipt in Boston.

Q. What is the date?

Mr. SCOTT. It is May 6, 1871.

By Mr. STEVENSON:

Q. Did Senator Patterson on Thursday or Friday show you the letter of Morton, Bliss & Co.?

A. I don't think he showed me the letter, but he showed me the envelope, and that certificate of stock. I have no recollection of the letter.

Q. Did you send for Senator Patterson, or did Senator Patterson come voluntarily into your room?

A. He came voluntarily to my room.

Q. Did he state what he came for?

A. He came to show me that he was mistaken in saying that he never had the Credit Mobilier stock.

Q. He stated to you, then, that he was mistaken about never having had the Credit Mobilier stock?

A. Yes, sir.

Q. Did he state anything else in regard to it?

A. He said he thought—nothing material. He thought I must have left it there. He had no recollection of leaving it there.

Q. Did he show you the certificate of stock?

A. Yes, sir.

Q. Did he show you the memorandum—the envelope in which that thirty shares was inclosed?

A. Yes, sir; he had the envelope which it was in.

Q. Did it show the date of the delivery?

A. I do not recollect that it did, sir.

Q. I mean the date when the thirty shares of stock were left with Morton, Bliss & Co.

A. I do not recollect whether it did or not.

Q. When he stated to you that you must have left it with them, what did you state?

A. I stated that I had no recollection of ever doing it. I thought he must be mistaken.

Q. Was there anything said between you as to the novel character of the indorsement—the alternate character?

A. I do not know that there was, sir. He called my attention to the letter—to the memorandum on the corner of the envelope, saying—"Patterson was advised or written," or something of that sort. I cannot recollect what it was exactly.

Q. I still don't understand what was the character of the memorandum on the envelope to which he called your attention?

A. It said, I believe, that it was $2,000 in bonds, or some in bonds, and so many shares of stock, and so many shares of Credit Mobilier stock, I think. That is part of the indorsement, if I remember right.

Q. (to Mr. Patterson.) Have you that envelope?

Mr. PATTERSON. I have sent for it.

Mr. AMES. That envelope will show better than my memory.

By Mr. SCOTT:

Q. Had you the curiosity to look at that date to see what the date of the attestation of that certificate of stock was?

A. No, sir; I did not notice whether there was any date on it at all or not.

Q. I do not mean of your transfer, but I mean the original attestation by the president and secretary of the company issuing the certificate to you?

A. No, sir; it must have been to me. I have had no certificates from them since about April, 1868, and if delivered at all, it must have been back about that time—between August, 1867, and April, 1868.

Q. Are we to understand that the shares which you held were all issued to you about that time, or did you hold your shares in a block, until such time as you wanted to divide them?

A. No, sir. I had them divided out. When I took them for these different parties, I took them in ten and twenty and thirty share certificates, all of them. I did not take them in block at all.

The CHAIRMAN. I don't know as I quite understood the answer. What time did this Credit Mobilier stock come into your hands?

A. It came into my hands from August, 1867, to April, 1868.

By Mr. PATTERSON:

Q. You corrected the date at which the $3,000 were deposited with you from your memorandum-book?

A. Yes, sir.

Q. Corrected it from January, 1868, to August 31, 1867. I would like to ask you where that deposit was made?

A. What deposit?

Q. The $3,000 with you?

A. You paid me the money, I suppose.

Q. Where? In Washington, or where?

A. I could not tell without looking at my book. I think it was at some other place than Washington. I think it was paid me in Boston. I don't know.

Mr. PATTERSON. My impression is the other way; that it was paid in Washington, and that your first date was correct, and the last one wrong.

Mr. SCOTT. Have you your memorandum-book accessible here in the city?

Mr. AMES. Yes, sir; my memorandum-book for 1867 is here in the city.

Mr. PATTERSON. I don't know that there is anything essential about it, but I think the date is wrong. Another point: Before I made my second statement to the committee, you came to my room on Sabbath evening, about 9 o'clock, on the 19th of January, and stated that you had been called again to appear before that committee, and took from your pocket a memorandum which you said you had found among your papers, giving an account of your dealing with me, very much to my surprise. I asked you to copy that memorandum; you did so, and I have that copy.

The chairman here reminded Mr. Patterson that he was not, at the present time, testifying.

Mr. PATTERSON. I wanted to bring the witness to the point where I could ask a question.

The WITNESS. You copied the memorandum for me, did you not, in my room?

A. I copied it, or you did; I do not know who copied it. The next morning, or Tuesday morning, I made my statement to the committee. You were examined after I concluded. You drew from your pocket a different memorandum from that which you had shown me the night before and copied for me. Now I want to know if you have two memorandums and where that memorandum came from. You told me that you found it among your papers and that it represented our transactions. The copy which you showed in the committee was different from the one which you copied for me.

A. I do not think I have had but one memorandum, sir.

Q. Was there any statement on the first memorandum that you paid me thirty shares of stock in the Union Pacific Railroad, as a dividend, on the 17th of February?

A. You will find it there, in the statement, February 16.

Q. Was there anything on that memorandum which stated that the payment was made?

A. I guess the memorandum is there.

The CHAIRMAN (to Mr. Patterson.) Which memorandum do you mean?

Mr. PATTERSON. The one he copied for me.

Mr. SCOTT. What date was it?

Mr. PATTERSON (to witness.) It was on the 21st of January that I made my statement. On page 267 the question was asked, have you now any memory of delivering it to Mr. Patterson, and the answer is: "It is my recollection that I delivered thirty shares of stock and thirty shares of Union Pacific Railroad stock, at the same time that I paid the first dividend." Now the question is, is there any statement of that kind on the memorandum which you showed me Sabbath evening?

Mr. AMES. What do you make of that different from my statement?

Mr. PATTERSON. The point is this: On the memorandum which you showed to me on the 19th of January, and which you copied for me, in my room, there is no statement in relation to the delivery of thirty shares of stock in the Union Pacific Railroad. That was a memorandum which you said you found among your papers representing our transactions. The next morning, when you came into the committee, you showed a memorandum which had thirty shares of stock of the Union

Pacific Railroad delivered to me at the same time you delivered the 80 per cent. in bonds.

A. That statement was made by showing to each of those parties who received their dividend of 80 per cent. in bonds, which I sold them at 97, what they were entitled to in addition. There was a memorandum on the bottom that you were to receive so much money, and you were entitled to thirty shares of stock of the Credit Mobilier and thirty shares of the Union Pacific Railroad stock. It did not say they were delivered, but that was the way the account stood.

The CHAIRMAN (to Mr. Patterson.) I would suggest that if you attach any importance to the transaction, the memorandum had better be produced.

Mr. AMES. Yes, sir; let us see the memorandum. I made up all these statements showing each party what he was entitled to. He had got his dividend of 80 per cent. in bonds, which I sold at 97, and then he was entitled, in addition to that, if he had paid for his Credit Mobilier stock, to thirty shares of that —a dividend of 100 per cent. in Union Pacific was thirty shares of that. My memorandum was to show you that you were entitled to thirty shares of Credit Mobilier and thirty shares of Union Pacific Railroad stock.

The CHAIRMAN. The memorandum had better be produced.

Mr. SCOTT. Can you fix the market value of the Union Pacific stock on the 6th June, 1871?

A. No, sir; I cannot.

By Mr. STOCKTON:

Q. How long have you known Senator Patterson?

A. I have known him ever since he came to Congress.

Q. You say you are not good on dates, but I would like you to fix that as well as you can.

A. I do not know when it was, whether it was in 1862, or whether it was in 1864, or 1866. I knew him in 1866.

Mr. PATTERSON. Eighteen hundred and sixty-three it was, I think.

Mr. AMES. Then I have got pretty near it for me.

Mr. STOCKTON. Well, then, it is conceded it was about 1863 that you first met him. How did the first question ever come up between you and Senator Patterson with reference to your investing any money for him?

A. I have no idea.

Q. You do not recollect that?

A. No, sir.

Q. What were your relations with him?

A. Friendly.

Q. That of course we understand; but who introduced him to you? Do you remember that?

A. No, sir.

Q. How friendly were you; were you intimate?

A. Very friendly.

Q. Did you live together, or board together?

A. No, sir. I believe we did not board together, but we sat very near together, I think.

Q. In the House?

A. Yes, sir.

Q. What induced you to propose to him to make his fortune in the Credit Mobilier?

A. I do not know whether he proposed it to me or I to him.

Q. You do not know that?

A. No, sir.

Q. Whether he proposed to you or you proposed to him; what was your inducement to make money for Senator Patterson? That is what we would like to know?

A. My friendship, sir; nothing else.

Q. Can you state about the time that you were so friendly with Senator Patterson as to induce you to do that?

A. My memorandum shows it was about August, 1867, sir, that he paid me, but I had an impression it was later. That was my memory, but my memorandum-book says that it was August, 1867.

Q. Why did you offer to Senator Patterson this inducement?

A. Well, nothing, only as an act of friendship I gave him a good investment. The charge that it was to influence votes was utterly false. We did not know that there was anything wanted. Legislation for the Union Pacific Railroad was all had before I had anything to do with it in 1864.

Q. State as briefly as you can the names of persons to whom you had that friendship.

A. I had to most everybody, and if I had had more of it I would have had more friends.

Q. I will be obliged if you will give me the names of those parties, or of anybody to whom you offered that stock at that time.

A. I have offered it to hundreds of people, to Gamaliel Bradford, E. W. Gilmore, Homer Gilbert, John B. Alley.

Q. Was not Alley one of your partners? Was not he in with you in the thing?

A. No, sir; I got him to go in, and guaranteed him 10 per cent. against loss, and that I would return him his money with 10 per cent. interest any time that he might throw it up.

Q. Is that the man that I see noticed in the papers, as Alley from Massachusetts?

A. Yes, sir.

Q. Why, they say he owned more stock than you did in this?

A. No, sir; I guess not.

Q. Alley went in on your account?

A. Yes, sir. I got Mr. Hooper, and Senator Grimes, and guaranteed him against loss, and 10 per cent. on his money, and to take it off his hands when he saw fit.

Q. How was that; in writing?

A. Yes, sir; a written obligation. I can get it for you, if you want it.

Q. Was he a Senator at that time?

A. Yes, sir.

Q. Let us hear the rest of them.

A. I have tried hundreds that would not go in. You want people here, I suppose. I got Mr. Dawes, Mr. Bingham, Mr. Garfield, Mr. Kelley, Mr. Patterson, Mr. Logan, Mr. Wilson; some of them backed out in a little while, you know, and some got frightened. I got Mr. Colfax, and various other parties.

Q. Now every name you have mentioned has been that of a man in Congress.

A. O, no, sir; Bradford and Dana were not, Gilbert and the two Gilmores.

Q. Well, I am mistaken about that, but a large proportion of the names you mentioned were Congressmen.

A. About one-half, sir.

Q. Now, what I want to know from you is, why so large a proportion of the gentlemen in the House and Senate were the gentlemen you wanted to interest in this affair?

A. Well, I was here, and acquainted with these gentlemen.

Q. Were you in the House at the time?

A. Yes, sir; and I thought it would be a good investment for them; that is all. We did not want any legislation. We wanted men of influence, character, and standing associated with us; and so do you, everybody else does, who desires people to enter into an investment with them. They want good men, and nothing else.

Q. Was it because they were men of influence?

A. Yes, sir.

Q. Those were the kind of men you wanted, were they?

A. Yes, sir; men of character. Don't you?

Q. What I do is not under investigation of Congress, Mr. Ames. may be a very bad man, but they are not investigating me.

A. O, you would like to be associated with good men.

Q. Yes, sir; you have been associated with very good men, and we want to find out who those good men are.

A. If I had the stock-list I could tell you a good many of them.

Q. Where is that stock-list?

A. I guess it is here.

Q. If that is in the testimony I will not trouble you further.

A. (Referring to House testimony.) Mr. Hazard; I got in Josiah Bardwell, Thomas Nickerson, Ezra H. Baker, Ezra H. Baker, jr., Frederick Nickerson, Benjamin E. Bates, Joseph Nickerson, Oliver Ames, Oliver S. Chapman, J. M. S. Williams, William P. Glidden, Charles A. Lambert, Royal E. Robbins. Those are the names I induced to go in.

Q. You need not mention more. I don't think you understand my point precisely. It is this: In the testimony which has been sent us there are a great many names of members of the House, and some members of the Senate, who it states went into this thing through their relations with you?

A. Yes, sir.

Q. Did all these gentlemen go in because they were personal friends of yours and you wanted to make money for them?

A. I do not know of any other reason, sir.

Q. Just mention those gentlemen whose fortunes you wanted to make.

A. All of them, sir.

Q. Just mention the names now. Not outside men, but members of Congress, whose fortunes you wanted to make.

(The presence of the committee being desired in the Senate chamber, the examination of the witness was suspended at this point.)

The examination of L. P. MORTON was resumed.

By the CHAIRMAN:

Q. Mr. Morton, since you were upon the stand before, have you seen the certificate of stock?

A. I have it here. Senator Patterson has just handed it to me.

By the CHAIRMAN:

Q. Are you now able to tell us in whose handwriting that indorsement is on the envelope? I mean the indorsement of which you spoke this morning.

A. No, sir; it is some one of our under-clerks, but I don't know the handwriting.

Q. You cannot tell who?

A. No, sir; I cannot. The indorsement on the back of the envelope is, "Property of Hon. J. W. Patterson." (See letter to him, May 12, 1871.) "Thirty shares credit Mobilier of America, 2,000 Union Pacific Railroad Company income bonds, 1355, &c." I presume these were the numbers of the two bonds, 1355, 1356. Three hundred shares of Union Pacific Railroad Company; added, "sold." It gives us the date of the sale of the three hundred shares.

By Mr. STEVENSON:

Q. On the side of these remarks, headed "remarks," is, "delivered 2,000 Union Pacific bonds to Hon. J. W. Patterson, August 10, 1871. C. E. M."

A. Yes, sir; and the three hundred shares of stock were sold February 10, 1872.

Q. Then there is scratched out, but very palpable to read, "Delivered three hundred Union Pacific Railroad Company to Hon. J. W. Patterson, January 5, 1872."

By the CHAIRMAN:

Q. Look at that, about which I desire to ask you a question. This morning you spoke of there being an indorsement upon the envelope. Did you mean all that is upon it?

A. Yes, sir; I mean the memorandum upon the face of the envelope.

Q. Have you any means of knowing when that memorandum was put upon it?

A. No, sir; I have not.

Q. Is it all in one handwriting?

The WITNESS. Will you allow me to look at it to examine it? (Examining.) It is all in one handwriting except the memorandum of the sale of three hundred shares of stock.

Q. Now look at it. See what the penmanship would indicate, and state, if you can, whether it appears to have been done at the same date—whether the writing seems to have been put upon it all at one time.

A. No, sir; I should think not. Different dates. For instance, here is three hundred shares of stock, and thirty shares of Credit Mobilier may have been received at one time. I notice at the foot "three hundred shares of stock;" and after that is a memorandum, "sold."

Q. Does the entry of the thirty shares of Credit Mobilier stock and the three hundred shares of the other stock seem to be at one and the same time?

A. It is quite impossible to tell, sir. It says here (referring to Mr. Patterson) "see letter to him May 12, 1871;" and from the receipts of Mr. Ames, to my mind it would be very clear that he settled with him on the 6th of May, 1871, leaving due to Mr. Patterson thirty shares of Credit Mobilier and $2,000 of income-bonds. That is just what we seem to have received here subsequently, so far as we could judge from that.

Q. Subsequent to what?

A. Subsequent to the date of that receipt.

Q. What is the date of that?

A. The date of May 12. The inference would be that those were received and acknowledged the 12th. I should infer that, for some reason, those things were sent to us subsequent to the date of the receipt, which Mr. Patterson gave Mr. Ames, in Boston, dated the 6th of May, I think it was.

By Mr. WRIGHT:

Q. Do I understand you to state that it was your impression that these thirty shares of stock in that Credit Mobilier, and also two thousand Union Pacific Railroad income-bonds, were all received before the 12th of May, 1871?

A. I should think so.

Q. Or about that time?

A. I have a recollection, I think, of the three hundred shares of the stock and some bonds, either first mortgages or land-grants, which Senator Patterson, I think, handed me; and knowing that fact, and reading the receipt which I see in your book now, it is all perfectly clear to me that these thirty shares of Credit Mobilier stock and the two thousand income-bonds were not given to Mr. Patterson at the time, but they came into our possession subsequently, which date I cannot at this moment tell. My impression is, Mr. Ames handed them to us, as the property of Mr. Patterson, before the 12th of May.

Q. Have you any recollection as to whether this memorandum says, "See letter to him, May 12?"

A. No, sir; I have no recollection of that.

Q. You have no recollection as to the contents of that?

A. I have not. It would be very easy to find that out on my return; and, if you will excuse me, I will do so.

Q. Do I understand you to say these entries were made in the same handwriting?

A. Yes, sir.

Q. Made about the same time?

A. That might or might not be. It would not necessarily show the date. My inference is that the original envelope which this contained had been destroyed, and that this was a new one.

Q. Therefore, they might have been deposited at different times?

A. Yes, sir; I should think those three lines were written at the same time, from the appearance of the envelope.

Q. You think this is a different handwriting here? (Indicating.)

A. I think that last line, at the bottom, is a different handwriting. I think the other is the same.

By Mr. SCOTT:

Q. Could you find your press-copy of that letter of May 12, 1871?

A. Yes, sir; undoubtedly. I do not know whether it is a proper subject to be presented here, but I had some conversation with Senator Patterson in December, before any investigations were made, in which at that time I asked him if he had ever had any stock in the Credit Mobilier. He stated that he had not; that he had bonds and shares of the Union Pacific Railroad. I think he spoke of these two sums he had given Mr. Ames, of three thousand and four thousand, but he never had received of the Credit Mobilier, but had received shares and bonds of the Union Pacific Railroad Company.

By the CHAIRMAN:

Q. When was that?

A. That was December last, 1872.

By Mr. SCOTT:

Q. (Handing certificate to witness.) Give the date of that.

A. It is dated 20th day of January, 1868.

Q. Look at the stamp. Does that indicate February? It is marked "second," "seventh."

A. There is "second," "seventh," and "C. M. of A." That is the cancellation of the stamp.

Q. It would depend on the mode of cancellation by the officers of the company. Is that a correct mode of cancellation; and would it indicate the seventh day of February?

A. It would—yes. But it does not give the year.

By the CHAIRMAN:

Q. What is the date of the transfer on the back?

A. There is no date. The transfer is blank.

By Mr. STEVENSON:

Q. Will you read the transfer?

A. "For value received, the undersigned hereby has assigned and transferred unto the Hon. J. W. Patterson, or Morton, Bliss & Co.,——— shares of the capital stock of the Credit Mobilier, and———do hereby constitute and appoint———true and lawful attorney, irrevocably, for and in———name and behalf to make and execute all necessary acts of assignment and transfer required by the regulations and by-laws of said company. In witness whereof,———has hereunto set———under his seal, this———day———, 186—.

"(Signed)

"OAKES AMES, *Trustee.*

"Sealed and delivered in the presence of———."

By the CHAIRMAN:

Q. Oakes Ames, trustee, or Oakes Ames?

A. Oakes Ames, trustee.

By Mr. SCOTT:

Q. In whose hands are the names of J. W. Patterson and Morton, Bliss & Co.?

A. Oakes Ames.

By Mr. STEVENSON:

Q. Give us the explanation of why these words "delivered 300 shares Union Pacific Railroad Company to Hon. J. W. Patterson, January 15, 1872," are stricken out.

A. Well, I would infer that he may have been there and taken the stock, and afterward handed it back to us, the same day, perhaps, and that we sold it a few days subsequently. A few days later we seem to have sold the stock for his account.

Q. Did you, yourself, inclose this stock-certificate to Mr. Patterson?

A. I dictated the letter and signed it.

Q. Did you state anything in the letter except that you merely inclosed it?

A. No. I stated that we had discovered, within a few days, this envelope containing this certificate of stock, which we sent to him for his information.

Q. That was written on Wednesday?

A. On Tuesday or Wednesday of last week.

Q. Be good enough to furnish us the press copy of that letter of the 12th of May, if you please.

A. I will, sir.

OAKES AMES recalled.

By Mr. STEVENSON:

Question. Have you examined that certificate of stock, sir?

Answer. Yes, sir.

Q. Is that your handwriting?

A. Yes, sir.

Q. Is your memory refreshed now by anything that you have seen on that certificate as to whom you delivered it?

A. Why, I delivered it to Mr. Patterson, I suppose.

Q. Is your memory at all refreshed as to the date of the delivery?

A. No, sir. I suppose that indorsement must have been made at the same date of the receipt, probably.

By the CHAIRMAN:

Q. Were you a good deal in New York in 1871?

A. Well, I am in New York a good deal every year.

Q. Transacting business with this firm of Morton, Bliss & Co.?

A. Yes, sir.

Q. Do you know whether you were there in the month of May, 1871?

A. I do not.

Q. Would your memorandum-book show whether you transacted any business at their house?

A. It would, sir. My memorandum-book of 1871 would show it, I suppose.

Q. You have no recollection of it?

A. No, sir.

By Mr. STEVENSON:

Q. Have you ever looked at your memorandum-book to see whether you could ascertain the delivery of that thirty shares of stock to anybody?

A. No, sir. I supposed I delivered it at the time.

Q. If you did your memorandum-book would probably show it, would it not?

A. Well, I should think so. It has been my impression all the time that I delivered it at the time. I notice in that certificate my signature on the transfer looks as though it was written with a different pen and different ink; probably not both at the same time.

By the CHAIRMAN:

Q. Look at the memorandum and see whether you recognize it as your own.

A. Yes, sir; the pencil-writing is mine.

Q. When was that made?

A. It was made at Mr. Patterson's room one evening. I do not remember when.

Q. Recently?

A. Since this investigation commenced, sir.

Q. What does it purport to exhibit?

A. Well, part of it is erased.

Q. What did you intend it to exhibit; the statement of your account with him?

A. Yes, sir.

Q. As you recollected it at that time?

A. Yes, sir. January 18, thirty shares Credit Mobilier stock. That conforms to the date of the certificate. February 14, eighty shares of

bonds, 97. June 19, cash, $1,800, cash dividends. That was as far as I had it on that memorandum.

Q. That was the condition of things between you and him as you then recollected it?

A. Yes, sir; that was up to the June dividend of 1868; nothing after that.

By Mr. SCOTT:

Q. From what source did you derive the information which enabled you to fix January as the date?

A. I had a memorandum of the account of each of these gentlemen made up to exhibit to the committee.

Q. A memorandum like that?

A. Yes, sir; something like that.

Q. What I mean was, was it from any of your memorandum-books, which you had at the time, that you derived the date of January?

A. No, sir; I do not know that it was. No, sir. I supposed it was January; but my book says it was August that I received the money. I do not know which is right. I think the book is right.

By Mr. STEVENSON:

Q. This is a memorandum that you made—for what?

A. To show Mr. Patterson what I had paid him. He paid me $3,000. I had credited to him the dividend of 97 per cent. and the cash. I credited Mr. Patterson with cash $3,000 by his dividend of the bonds and by the June dividend, and the account is not made up any later than June.

Q. Did you have a memorandum-book from which you took this memorandum?

A. I think I had an account made out on a slip of paper, which I think is filed in with the other committee, and those items were drawn from it in pencil, hastily, to show him what I had.

Q. Then, upon examination of your book, you found that one of those items were incorrect?

A. I found that the item on my book was that he paid me in August instead of January.

Q. This is January 30, 1868. You found that it should have been August, 1867.

A. Yes, sir.

Q. Did you scratch that out with ink, or what is the meaning of it?

A. No, sir; I did not. I think that was somebody else's figuring. That is my pencil-mark, I suppose.

By the CHAIRMAN:

Q. All the ink is not yours?

Mr. PATTERSON. The ink is mine.

The WITNESS. That is not the date; it is January, 1868.

By Mr. STEVENSON:

Q. It just says, "January, 1868, thirty shares of Credit Mobilier."

A. Yes, sir.

By Mr. PATTERSON:

Q. I should like to ask Mr. Ames from what he made up that exhibit which he presented to the committee in the House.

A. I made it up from my memorandum-book; I think there is a mistake in the interest.

Q. It is not the interest I refer to. Does your memorandum-book say January, 1868, thirty shares Credit Mobilier, $3,000, or August 31?

A. I think there is no date in my statement that I made up, but my memorandum-books show that I received the $3,000 the 31st of August.

Q. Then your exhibit to the committee in there was made up partly from your memorandum and partly from your memory?

A. Yes, sir; the date is wrong of the $3,000.

Q. I see there is nothing here said about thirty shares of railroad stock delivered to me February 16, 1868. In the book, when you came to give your testimony and exhibit that memorandum, you had thirty shares of stock in the railroad, which you said you delivered to me on the same day?

A. No, I guess I did not say that, did I? I made up a statement with each of the parties, showing what they were entitled to.

Q. No; what was delivered to them.

A. You were entitled to your thirty shares of the Credit Mobilier, for which you paid me $3,000; then you were entitled to a dividend of a hundred Union Pacific Railroad stock, and I put that, as a little memorandum, on the bottom, to show what each man was entitled to.

Q. Referring to page 267, near the top of the page, the question is asked:

"Was the stock ever transferred to him?

"A. I think none of the stock was transferred. It is my recollection that I handed him a certificate of stock. He says I did not, and his memory is better than mine. If I did not, then I have lost one certificate of thirty shares.

"Q. Have you now any memory of delivering it to Mr. Patterson?

"A. It is my recollection that I delivered thirty shares of the stock, and thirty shares of the Union Pacific Railroad stock, at the same time I paid the first dividend."

And that you read from a letter memorandum which you had before the committee—the memorandum which you showed to me Sunday night, from which you copied—had nothing of the kind on it; and this has nothing on it.

A. (Referring to memorandum.) There is the way I made up the statement to each of the parties, showing what they would be entitled to. These parties had ten shares, twenty shares, and thirty shares, and I made up a statement like that: "Cash and interest, $3,150 credit." Then, credit by bonds, $2,328. In your case you had paid me for yours, and there was $5,430, your due; and I paid you, cash, $2,328. There were $3,000 Union Pacific stock, and the Credit Mobilier stock belonging to you. Then, in June, you were entitled to a dividend of $1,800, in cash, which I gave you a check for; and I made up a little statement like that. I left the $3,000 off. To a good many of these parties I did not deliver the stock. I cannot remember whether I delivered it to you or not. It was my impression I did. I may be mistaken.

Q. The point I make is this: How could it have been on a memorandum which you exhibited to the committee on Tuesday, that you had it on, when it was not on on Sunday night, when you exhibited it to me and copied it for me.

A. I think you are mistaken. I did not copy that. I copied as far as I went, but I did not put down what stock you were entitled to. I put down your account. I made a statement like that. There is a man who had ten shares. I held for him ten shares of Credit Mobilier stock, and ten shares of Union Pacific Railroad stock. Some of the

parties I delivered it to, and some I did not, but I made the statement of the account to each individual. I presume I did to you.

Q. You sat at my table and I sat at your side, and you copied your memorandum, and when you read it it was not like.

A. Does that assume I was not correct because I omitted the shares of stock you were entitled to?

Q. No; you do not get my point. I want to know how it happened the memorandum changed between Sunday night and Tuesday morning?

A. Perhaps I did not copy it all.

Q. You say it is your impression that you delivered me those thirty shares of stock in the Credit Mobilier on February 14, whereas in your first testimony you testified that that stock was transferred to Morton, Bliss & Co. on my order?

A. Well, I should not have done so if it had not been your order, and the certificate proves it.

Q. Did you transfer it on my order. If you did, then you did not deliver it to me.

A. I do not see that that affects it at all. I should not have put Morton, Bliss & Co.'s name there without your order, it is not likely, on your stock.

Q. On page 20 it is said, "Mr. Patterson bought of this thirty shares, and it was by his order transferred to a banking-house in New York." On page 267 you say, "It is my recollection that I delivered thirty shares of the stock and thirty shares of the Union Pacific Railroad stock at the time I paid the first dividend." And the receipt shows that neither was due. The receipt of May 6, 1871, shows that it was still due; shows that it was neither transferred to the banking-house in New York nor delivered to me.

A. Well, I don't know about that.

Q. I merely state what the receipt shows.

A. I know; but here, Mr. Patterson, you must remember that this first statement of mine I was called upon to make was of transactions of nearly five years ago, and I had not a single paper, memorandum, or anything else. Now you and the other people would tell me your recollection of the matter, and it got me so confused I did not know exactly what I did tell. I was very sure I delivered you that stock. I do not know but when I made this receipt, probably at that time, I indorsed it and transferred to you or Morton, Bliss & Co. But if you will look at that certificate of stock you will see that my signature on the back, of Oakes Ames, trustee, was not written with the same pen or the same ink with which the filling up is, and so it must have been done at another time, I think.

Q. If you delivered to me thirty shares of stock in the Credit Mobilier on the 6th of May, when that receipt was written, why does not the receipt show it? Why does it say, "Still due thirty shares stock in the Credit Mobilier?" Why does not the receipt show the transaction correctly?

A. That receipt says they are both due you, the stock and the bonds. When I went home I told my book-keeper I could not understand the receipt at all. He says that you had the bonds and I delivered you the bonds at that time, and I made my receipt wrong. "He delivered you the bonds that day, and the books show that the bonds were delivered to you on the day that receipt was written." I do not pretend to be very correct. My impression is that I delivered you the stock at that time, both the thirty shares Union Pacific and the

thirty shares Credit Mobilier, but I may be mistaken. That receipt in May would rather go to show that I was mistaken.

Q. Of course I am dependent on memory, as you are; but if you had delivered those thirty shares of stock to me in Boston, would it not have been natural to have transferred it to me alone, and then for me, if I delivered it to Morton, to transfer it to him myself? Why should you transfer it to both of us if I received it in Boston?

A. Well, that looks to me very plain. If you wanted to transfer it to Morton, Bliss & Co., why did you not do it yourself? But you asked me to put in both your names, I suppose. You see they are both written at one time, and with one ink, and one pen. There cannot be any mistake about that.

By Mr. STOCKTON:

Q. I think you said this morning you had no recollection of depositing this stock with Morton, Bliss & Co.?

A. No; I have not.

Q. The certificate of stock is made out to you; that is your stock?

A. Yes, sir.

Q. It is your stock as trustee?

A. Yes, sir.

Q. For whom were you trustee?

A. I took those certificates in my name as trustee for—— I was not trustee for anybody, I suppose. I was not trustee for anybody, legally, because nobody had authorized me to do it.

Q. Now, Mr. Ames, I want to ask you, not as a matter of law, but as to a simple fact. Here is a certificate to Oakes Ames, trustee; I want you to tell me, and tell this committee, for whom you were trustee?

A. I was trustee for anybody to whom I sold the stock. If I let Mr. Patterson have it, I was his trustee, perhaps. Mr. Patterson could not draw the dividends from that at all.

Q. Do you mean to say that this certificate did not make you trustee for anybody?

A. I took that at my own volition as trustee. I do not know why I did it, only to keep it separate from my own individual stock. I took this stock from the company on the ground that I had promised a good many people who talked with me about getting stock in the Credit Mobilier, and I had promised it to various parties. The company had had some stock in the hands of Dr. Durant, which he had not paid for.

Q. Well, all that does not touch my question.

A. Hold on half a minute and you will get it just as quick. He claimed that he was under obligations. They made him put that stock back into the hands of the company, as he had not paid for it. He claimed that he was under obligations, and promised stock to various parties. I told them I had also done that, and of the stock belonging to the company, $60,000 worth, they gave me $25,000 worth, or two hundred and fifty shares, and gave Mr. Durant the rest, and as I took that stock I took it in this form, in certificates of ten, twenty, and thirty shares, all of it. And as I sold it to those parties, say to Mr. Patterson, I took this certificate in that form as trustee. Mr. Patterson could not draw dividends on that stock, because he was not a party to the contract. I want it to be understood that where I figure dividends on the Credit Mobilier I meant dividends on the Oakes Ames contract and not the Credit Mobilier.

Q. You say that he could not draw the dividends on stock that you

held as trustee. Was this stock and this certificate held by you as trustee for Mr. Patterson?

A. It was while I held it—I suppose after he paid for it. But after I had indorsed it and delivered it over to him I did not suppose that I was trustee for it. After I indorsed it I was not trustee; but while I held the stock, I held it in trust for him.

Q. Were there any dividends on this stock?

A. There were dividends on the Oakes Ames contract which this represented. Mr. Patterson could not draw any dividends on it, because he was not a party to the contract.

Q. What I would like to know is, when was your first dividend declared after this stock was in the safe of Morton, Bliss & Co.?

A. There has been no dividend since it was in that safe. There has been no dividend since 1868. It was put in that safe in 1871, wasn't it?

Q. What dividends were there before?

A. I have given them in my testimony, as near as I can.

Q. If you can think of them, without troubling yourself, I would like to have them again.

A. I think he had dividends of this 80 per cent. in bonds, which is the first certificate here, and he had a dividend of 60 per cent. in cash—$1,800. After that was a dividend in certificates for first-mortgage bonds, which were received from the company, but, after a long while, were paid in income-bonds of 75 per cent. Then I think his thirty shares of stock gave him about a hundred shares of Union Pacific stock.

Q. How much do you suppose that the $3,000 and the $4,000 invested by Mr. Patterson with you, according to your evidence—how much do you suppose they would have been worth with this stock at its par value?

A. This stock now is not worth anything. That is wiped out, and that should be deducted from the dividends; but I should think for those $3,000 perhaps he got $10,000 or $12,000, and that $3,000 now should be deducted from it. I should think there had been $7,000 or $8,000 profit on it.

Q. I do not think you understand my question.

A. The $4,000 had nothing to do with the Credit Mobilier at all, you know.

Q. The evidence you have given, referred to in this book, shows that Mr. Patterson gave you $4,000 and afterward gave you $3,000.

A. No; you are mistaken. He gave me $3,000 first.

Q. Well, $3,000 first and $4,000 afterward; I correct that. Now without this examination and trouble which has since arisen, what do you suppose would have been the value of those two sums which you invested for him?

A. That would depend on when he sold his bonds—those income-bonds which we invested for him at 80. With those bonds, for each thousand dollars of bonds he got two thousand of Union Pacific Railroad stock. Then if he had sold those bonds at one time, two years ago, when this Treasury raid came on, he would have lost three or four thousand dollars. I do not know whether he has got the bonds now or not, but he took them at 80. The dividends on this I have told you of. He gave me $4,000 to invest in Union Pacific income-bonds which the company were offering to everybody who would take them, and offered to me, but I could not take them and got Senator Patterson to take them. For that $4,000 he got $5,000 of income-bonds and $10,000 in stock.

By Mr. PATTERSON:

Q. That was at the par value; 200 shares?

A. At the par value. Now, the profit he would have made would depend on when he sold his bonds and stock. If he sold the bonds when I had to sell a lot of mine at 29 he lost money pretty largely; but if he got 80, as I suppose he did, for his bonds, he would make the stock profit. The stock would be profit.

By Mr. STOCKTON:

Q. You see the point of my question. It appears that you were going around generally to the members of Congress and all your friends apparently, from what you have stated, trying to get them to go into this thing, and you wanted them all to make a fortune. That is exactly the way the evidence stands. You wanted all your friends to make a fortune?

A. Yes, sir.

Q. Now, I want to know how Patterson was to make his fortune by this thing?

A. Well, I have told you. The dividend that he got on his Credit Mobilier stock.

Q. How much was that?

A. I should think for that he got about $7,000 or $8,000 profit, on his $3,000.

Q. The $3,000 brought him $7,000 or $8,000?

A. I should think so. I do not know. It depends on when he sold his securities.

Q. Now, be good enough to tell me what that word "sold" means, indorsed there? (on envelope.)

A. It means s-o-l-d, I suppose. I do not know anything more about the envelope than you, but that is what I infer.

Mr. MORTON. I can explain that. This memorandum was made of securities which have been, at different times, in the envelope, and there is the date when that was sold.

Mr. STOCKTON. Three hundred shares Union Pacific Railroad Company sold?

Mr. MORTON. The shares we had at one time, and afterward sold them, and marked them as sold.

Mr. AMES. Now, I suppose about one hundred shares of that came from the Credit Mobilier, and two hundred shares came from his investment of the $4,000 in the income bonds, so that he got out of all his investments those three hundred shares; he got $6,000 of income-bonds and the thirty shares of Credit Mobilier stock, $750; one of the receipts says in money, and $1,800 in money at another.

Mr. STOCKTON. How much do you think that your friend Senator Patterson was advanced in his pecuniary affairs in life by your devotion to him?

Mr. AMES. I guess about $10,000.

Q. About $10,000?

A. I think so.

Q. Why did you not take care of some of your other friends?

A. I had not enough to go around. I went around as far as I could. I gave Patterson more than his share, a good deal.

Q. Now, here is the chairman of the committee; why did you not help him out a little?

A. He did not come around until it was all gone. I have got some now, I will sell him. I will sell any of you some now.

L. P. MORTON recalled.

By the CHAIRMAN:

Q. You say you exhibited an account-current of your sales with Senator Patterson. What did you dispose of? The $2,000 income-bonds that appear on this envelope?

A. By this memorandum, we returned, "Delivered to Senator Patterson, in August, 1871, $2,000 of income-bonds."

Q. What did you sell? That is the point I want to get at.

A. We sold the three hundred shares of Union Pacific stock, and we sold some bonds, I think, first-mortgage bonds, and land-grant bonds.

Mr. PATTERSON. That was not connected with this matter at all.

The CHAIRMAN. That does not appear upon this envelope, does it?

Mr. MORTON. I do not know whether it is connected or not. It does not appear upon this envelope.

By the CHAIRMAN:

Q. Did you sell any portion of those income-bonds?

A. No, sir.

Q. They were re-delivered to the Senator?

A. Yes, sir.

By Mr. STOCKTON:

Q. What did you say you had sold, and what not sold?

A. I recollect, as I said, that we had sold the three hundred shares of stock, which were at one time in this envelope, and placed those to his credit. The two thousand of income-bonds we returned to him on the 10th of August, and the thirty shares of stock are here.

Q. There are three different matters in this envelope: The first is thirty shares of Credit Mobilier of America; the second is two thousand Union Pacific Railroad stock; and the third is three hundred. You recollect that you sold the two thousand of the Union Pacific?

A. No, sir; we returned them to him. You will see by my memorandum.

Q. What was done with the three hundred shares?

A. They were sold for his account.

Q. There are three different things in the envelope; one of them you returned, one of them you sold.

The CHAIRMAN. And one is here.

By Mr. STOCKTON:

Q. You know one was sold and one was returned. How do you know that?

A. I know it from our books and from this envelope.

Q. From your books?

A. Yes, sir. The three hundred shares I know were sold, because I saw that in the statement of account rendered recently.

Q. Now I am simply testing your memory. I want to get what I can out of you. I wish to know why it is that you know what was done with the two thousand shares and the three hundred shares, and do not know anything about the thirty shares, except finding them in this envelope?

A. Those two items I know nothing of my personal knowledge. As I have stated, I had a recollection that the Senator handed me some bonds and these three hundred shares of Union Pacific stock. Then we find this envelope just as you see it, and there is the certificate of the Credit Mobilier, and here is a memorandum that we had delivered to

the Senator the two thousand income-bonds on the 10th of August 1871.

Q. Then, if I understand it, you really would know nothing about it unless it was for this envelope and this stock?

A. I should know nothing about anything except that three hundred shares. I have a personal recollection of that.

Q. But you have no personal recollection of those thirty shares?

A. No, sir; I had no knowledge of it whatever until it was discovered a few days ago.

Q. I asked you this morning, before the arrival of the other witnesses, if you could tell us who knew the indorsement on this stock, and my object was to find out who delivered this to your firm. Can you give me any information on that point?

A. I cannot here, now, but I think, on my return to-morrow, I shall be able to. The memorandum, "See letter to him, May 12th, 1871," will give some indications as to the parties.

Q. There is a difference of opinion, evidently, between Mr. Ames and Mr. Patterson, as to who gave this stock to your firm, and I should like to find out who did do so.

A. I perhaps can ascertain that upon my return to-morrow, and if I can I will do so with pleasure. There is a receipt signed by Senator Patterson, which I have just seen, dated May 6th, which Mr. Ames states was a settlement which he had made with him, leaving due to Senator Patterson those two items. Now that was May 6th. Here is May 12th, six days subsequently, he seems to have come into possession of those two items, which Mr. Ames stated then that he still had to hand to the Senator, and the natural inference is that he had not them, or did not give them to the Senator at that time, but handed them to us on the 12th of May, and we advised the Senator on that day that we had received them for his account.

Q. Did Senator Patterson make any statement to you anywhere about December in reference to this matter?

A. He had some conversation with me in December or January, I do not remember which. It may have been December, and it may have been January. I do not know whether it was before these investigations commenced or not. It was December or early in January.

Mr. PATTERSON. It was on my return from the holidays.

Mr. MORTON. Yes, that was it.

By Mr. STOCKTON:

Q. How was that, sir? Just state it.

A. He had written to me just previously, asking me whether we had had any transactions—had ever held, bought, or sold, any Credit Mobilier stock—for his account; to which I, or we, replied that we had never held any of the stock for him or any one else.

Q. Did he write you a letter of that kind?

A. He did.

Q. Do you file your business letters?

A. Yes, sir; always. This may have been a personal letter.

Q. Do you think you can produce that letter?

A. I dare say I can. I do not know. It may have been addressed to me personally, and, if so, it might not go on file. It was merely asking for a statement of his account, which we gave him.

Mr. PATTERSON. I have Mr. Morton's reply, and I am perfectly willing to put that in testimony.

Mr. MORTON. I dare say the letter was addressed to me personally.

At that time I asked the Senator if he had ever had any stock of the Credit Mobilier. We were investigating our books to see if there was anything to show it. He said that he never had had any stock; that at one time he had some expectation of taking it, but that he never had received the stock; that he had given Mr. Ames money to invest for him. I think he named on two occasions, one the sum of $3,000, and one the sum of $4,000, for which he had received bonds and shares of the Union Pacific Railroad Company.

By Mr. STOCKTON:

Q. Mr. Morton, I asked you this morning whether you could tell us anybody who would know the handwriting on that envelope?

A. That question was asked me, and I could not identify it. It was written by some of our clerks in the office; I am not sure which.

Q. Will you try to send us evidence in reference to whose indorsement that is?

A. I will, sir. I think that letter of May 12 will give all the facts you desire.

Q. Where were you born?

A. In Vermont.

Q. How long have you known Senator Patterson, and where?

A. I have known him for twenty-five years. He and I resided, for some years, in the same place. I was a resident of Hanover, New Hampshire, for some years, during his residence there.

By Mr. STEVENSON, (referring to indorsement on envelope:)

Q. What is the meaning of C. E. M.?

A. Those are the initials of one of my partners.

Q. What is his name?

A. Milner. He is not a partner now. He was a partner in the house at that time. It must have been delivered by him personally.

Q. Is that C. E. M. in his handwriting?

A. No, sir.

Q. How does C. E. M. get there? What is it taken from?

A. I presume that it is a copy of an envelope that these securities may have been in previously, which may have been worn, and they were put into a new envelope, which, you see, is cloth-lined, and that memorandum was made on the face by a clerk in the office.

Q. Then you read that memorandum, "Delivered 2,000 Union Pacific income-bonds to Hon. J. W. Patterson August 10, 1871. C. E. M.?"

A. Yes, sir.

OAKES AMES recalled.

By Mr. SCOTT:

Q. Let me get an explanation from you of the testimony which may assist others. On page 40 of the House testimony, ought not the word "on," wherever it occurs in those dividends, be printed "in," so that it shall read, "one hundred per cent. *in* Union Pacific Railroad stock, and one hundred per cent. *in* first-mortgage bonds?"

A. Yes, sir. That would be more proper, I should think.

Q. Look at the list of dividends on printed page 40 of the testimony from the House, as having been made to the stockholders in the Credit Mobilier, and state whether that list is correct. If not, state wherein it is erroneous.

A. The dividend of 80 per cent. in first-mortgage bonds was in Janu-

ary, 1868, instead of July, 1868. I think the dividend in first-mortgage bonds under date of September 3 is erroneous. There was no such dividend made. It is an error. It is a repetition. I think the rest of them are correct.

At 4.45 the committee adjourned to 11.30 a. m., February 18, 1873.

TUESDAY, *February* 18, 1873.

Committee met at 10.30 a. m.

Senator PATTERSON came before the committee and stated: A gentleman came to me last night and asked me a question which led me to think that possibly the committee might have misunderstood me upon one point. It was as to why I did not bring this matter of the Credit Mobilier stock, deposited with Morton, Bliss & Co., before the committee. I did do so, and I was the first man who brought it here. There were only three men in the city who knew it, and I told them. As soon as I got the information from Mr. Morton I gave it to the committee.

By the CHAIRMAN:

Question. You mean to say you put it into your statement?

Answer. I put it in my statement. After I had completed my statement I put that in at the close because I obtained that information subsequently, when nobody here knew it, and probably never would if I had not told them of it.

Q. It is in the close of your statement, is it?

A. Yes, sir.

By Mr. STOCKTON:

Q. You said just now that in your statement you stated that Mr. Morton had discovered this stock?

A. Yes, sir.

Q. Was that in the written statement you presented to the committee the other day?

A. Certainly; fully. Everything you have got now was in my statement. It was read in my statement. I have that here if you would like to hear it.

(The witness here read, as follows, from the prior statement in writing submitted by him:)

"After having written the foregoing for the purpose of presenting it to the committee, I received, in answer to inquiries from my business correspondent in New York, information which goes to confirm the statement made by Mr. Ames of the transfer and deposit of stock in the Credit Mobilier to my account and benefit with the firm of Morton, Bliss & Co., though previous communications from the same correspondent confirmed me in the belief expressed in my examination before the Poland committee that no such stock had been transferred to me or to others for my benefit."

Mr. SCOTT. My memory was not impressed with that having been embodied in your written statement, and I suppose it arose from the fact that you simply stated the result of the correspondence without giving us the details of the certificate itself.

A. Nobody knew it when I stated it here. I thought it was a matter of honor that I should go and tell Mr. Ames of it, and I did so.

Mr. STOCKTON, (referring to envelope containing thirty shares of stock n Credit Mobilier, testified to on yesterday.)

Q. Do you know the handwriting on that envelope?
A. No, sir.
Q. Have you any recollection at all of this envelope?
A. Not the least, sir.
Q. When it was shown to you it was a blank on your mind?
A. Yes, sir. I cannot recall anything about it.
Q. Then you are still of the same opinion that you could not have deposited it there?
A. That is my impression. I have no recollection about it at all, and after three weeks of examination here I would not say in a peremptory tone that the nose on my face was there.

By Mr. STEVENSON:

Q. I would like to ask you whether you received a letter from Morton, Bliss & Co., of May 12, 1871?
A. All I know about it is what is on that envelope. I have no recollection of it. That indorsement looks as though I had.
Q. Have you ever examined your papers since this investigation commenced, and during your testimony before the House and the Senate, to see whether you ever had such a letter?
A. No, sir, because my papers are all in New Hampshire, five hundred miles away, and my house is shut up. I have not done that.

H. V. BOYNTON recalled.

Examined by Mr. STEVENSON:

Question. State whether you made a charge against Senator Harlan, as a correspondent of the Cincinnati Gazette, at any time, touching the exhibition to him of the checks heretofore referred to in the testimony.
Answer. Yes, sir; I published a statement which, in effect, was that.
Q. When was that made?
A. It was made in the latter part of 1869. I have been unable to fix the exact date.
Q. Will you state upon what authority you made that charge?
A. The first statement that was made to me, in reference to it, came from Mr. D. W. Bartlett, correspondent of the New York Independent.

By Mr. SCOTT:

Q. Did you say Bartlett or Bartly?
A. Bartlett. He is now the clerk to the Committee on Elections in the House.

By Mr. STEVENSON:

Q. Did Mr. Bartlett state to you, as a matter within his own personal knowledge, that this charge was true?
Mr. HARLAN. Mr. Chairman, I think the witness from whom the information came had better be called.
Mr. STEVENSON. The only reason that I asked was that we might call him.
The CHAIRMAN. Senator Stevenson was not asking what the witness said.
Mr. STEVENSON. No, no; I was only trying to get at the information, to know whether Mr. Bartlett stated it as of his own personal knowledge, so that we might call him.
Mr. BOYNTON. I have not answered the question as to having made the publication by Mr. Bartlett's authority, but that I first heard of it from him. I did not publish it upon Mr. Bartlett's authority, as he specially requested me to say nothing about it. I observed that confi-

dence, so far as he was concerned, and it was at quite a subsequent period that I made the statement.

By Mr. STEVENSON:

Q. Did you hear it from anybody but Bartlett?

A. Yes, sir; I have talked with a good many persons in reference to it. It is a matter that has passed a number of years. I cannot state exactly the person, or that I got it from any one person, so as to make the positive statement. I satisfied myself in reference to it.

The CHAIRMAN. The inquiry is directed to you to give the names of persons from whom you got your information.

A. Well, as to mentioning any one individual by name, I can make no further statement in reference to it. I do not wish to answer a question outside of those propounded to me, Mr. Chairman.

Q. That is apparent, general, but it is proper that you should refer to the names of persons from whom you got your information, and then those persons may be called.

A. The whole matter is very clear in my mind.

By Mr. SCOTT:

Q. Let me understand your answer. When you say you cannot name any other person, do you mean to say that you have no knowledge of any other person whom you can name, or that you are unwilling to give the name?

A. I mean just this: that at a subsequent period I was directed from the home office to write up a statement in reference to certain matters connected with the Iowa election, and on the strength of that I made inquiries in various directions in reference to this matter, as well as others, and at that time undertook to publish this statement.

Q. I am not asking that. I am asking whether now, at this time, you mean that you cannot give us the names, or that, having the names, you are unwilling to give them? Which do you mean?

A. I am not unwilling to tell anything at all. I only wish not to appear to volunteer anything. I will answer any question fully.

Q. You mean, then, that you are unable to give the names?

A. I can give the name of the person upon whose authority Mr. Bartlett made the statement, if that is desired.

Mr. STEVENSON. Well, let us have that.

A. That was Mr. Dawes.

Q. Which Mr. Dawes?

A. Mr. Henry L. Dawes, of the House of Representatives.

Q. Did you see Mr. Dawes?

A. No, sir; I made no use of it until quite a subsequent period.

Q. What was the exact charge that you made in the paper?

A. Well, sir, I think the statement was altogether in reference—the first was in reference to the fact that Dr. Durant had paid $10,000 to Senator Harlan, and whether in connection with that matter at that time the further statement was made that use had been made of this subsequently to control some legislation touching the Pacific Railroad, I am unable to say. This has been running over since 1868, and I have been unable to find that letter. I have most of my letters here. If I should find it I would be very glad to produce it. There is no question, however, as to the statement having been made in my correspondence, and I hold myself thoroughly responsible for it.

Q. Was the only charge you made, that $10,000 had been given to Senator Harlan to be used in the Iowa election? Was that the amount of the charge as made at the time?

A. Yes, sir, as made at the time; either coupled then, or subsequently, with the statement that the fact of the existence of these checks had been used with Mr. Senator Harlan to control his conduct as a Senator.

Q. You say that those checks had been shown to him at a subsequent date after they had been received?

A. I so understood it, sir, and I meant to convey that impression in whatever I published.

By Mr. CLARK, counsel for Mr. Harlan:

Q. What was the date of this publication? Fix it as near as you can.

A. Well, sir, I have been unable to fix it. I think it was some time in 1869.

Q. Was it not after 1869?

A. It may have been after 1869, sir.

Q. If after 1869 how long after 1869?

A. I say I am unable to fix it. This newspaper controversy between Senator Harlan's friends on one side and the Cincinnati Gazette and myself as its Washington correspondent on the other, has been running, if I recollect rightly, since 1868—1867, probably—when the matter commenced in reference to the operations of the Indian ring.

Q. As to this particular point I wish you to fix as near as you can the time when you made that publication, intimating that these checks had been used to induce Mr. Harlan to vote as the railroad wanted him to.

A. I think it was subsequent to December, 1869. I cannot fix the date, sir.

Q. Are you sure it was not before that time?

A. No sir, I am not sure that it was not before that time.

Q. You have been the correspondent of the Cincinnati Gazette for how many years?

A. I have been the Washington correspondent of the Gazette since the winter of 1865-'66, if I recollect right, sir.

Q. In 1867 and 1868 you commenced your attacks upon Senator Harlan?

A. In 1867 or 1868 I began to write up some of the transactions of the Indian Bureau, if that is an attack upon Senator Harlan.

Q. With special reference to Senator Harlan?

A. No, sir; not with special reference to Senator Harlan; with special reference to the corruption of the Indian contracts.

Q. You have been almost constantly writing upon that subject since?

A. No, sir; not constantly. There have been three successive controversies with Senator Harlan, extending over a number of months.

Mr. SCOTT. Mr. Chairman, I do not think we ought to go very far upon collateral questions here. If it is intended to show the state of hostile feeling existing between General Boynton and Mr. Harlan, that is all right enough; but our inquiry is specifically with relation to this witness, and outside of that I do not think we ought to enter into the details of any other controversy.

The CHAIRMAN. I believe that is a field we have abstained from going into. It is only at the desire of Mr. Harlan himself that I suppose it would be allowable. At any rate it is sufficient to say that the committee itself has not opened that question.

Mr. STOCKTON. It is not in the nature of a cross-examination, but I have no objection to it.

Mr. SCOTT. My purpose is to prevent our running out into collateral inquiries.

Mr. CLARK, (counsel for Mr. Harlan.) I will say to the committee, I only desire to show that this gentleman has been very malignant in his pursuit of Senator Harlan, up to this day, as affecting his testimony, and as a matter of justice, I think, to Senator Harlan.

The CHAIRMAN. As that does not appear in this case, it would scarcely be of any importance. The witness has simply been called upon to give the source of his information, and he has stated, so far as he knows.

The WITNESS. Mr. Chairman, if they are going to try me personally, I should like to prosecute my own case also, for a while. After the counsel of Senator Harlan gets through I will be very glad of an opportunity to do it.

Mr. CLARK. I submit to the committee that I suppose we can show the motive of this witness.

Mr. SCOTT. I do not think it would be improper if that is the desire, but the question should be put as to whether or not there has been hostile feeling between them. But, that once out, I object to going into the details of the hostility.

The WITNESS. There is no hostile feeling proved on my side, sir.

Mr. HARLAN. I may state, to the chairman as well as to my friend, General Clark, that I care nothing about going into that. I suppose that General Boynton will admit that he has written a good many articles reflecting upon me.

General BOYNTON. Yes, sir; I will admit that; but I do not admit any personal hostility or malicious or malignant feeling at all.

Mr. SCOTT. I wish it understood that when I speak of not going into the details of the hostilities, of course I do not wish to exclude anything in connection with the witness.

Mr. STOCKTON. General Boynton has testified to but one thing. He has given us two names of parties from whom he got information. That is the whole of his testimony from beginning to end; and, therefore, in view of that, I agree that there is no use in our going any further, and as neither of the parties seem to desire it, we had better stop the examination at this point.

HENRY L. DAWES sworn and examined.

The prior testimony of General Boynton was, by direction of the chairman, read to Mr. Dawes, who was then interrogated as follows:

By the CHAIRMAN:

Question. Mr. Dawes, you see the subject-matter of the inquiry, upon which you are called, as to the authority upon which General Boynton made that communication. I will inquire whether it was upon your authority, so far as you know?

Answer. Whether it was upon my authority?

Q. Whether Mr. Bartlett had authority from you, or whether it was communicated by you either to Bartlett or General Boynton?

A. Well, I cannot say that. I was told by some of the gentlemen connected with the Union Pacific Railroad——

Q. The inquiry properly should be, perhaps, whether you had or have, at the present time, any information as to the truth of such a charge?

A. Well, all I can say is what I heard, if that is proper for me to state. I heard the statement, and remarked upon it to several people, and I have no doubt Mr. Bartlett was one of them. He was the clerk of my committee. But still I have no present recollection of any time

that I stated it to him, if I ever did. As I say, I stated what I was told to one or two persons.

Q. Have you any information of your own knowledge on that subject?

A. I have no positive information, of my own knowledge, of the existence of any drafts of this kind. All I know of it was what I was told by some gentlemen connected with the Union Pacific Railroad, and what I was told by them I did mention to several persons.

Q. Do you remember the persons to whom you mentioned it?

A. I have no positive knowledge that Mr. Bartlett was one of them, but I have no doubt that he was one.

Q. What I mean to inquire is, do you remember the name of the person who communicated this to you?

A. I think it was Mr. Alley, of our State, who stated to me that, looking over the papers of the Union Pacific Railroad, certain papers were found among them. That circumstance I mentioned. I do not know that I could be able to say that I know I said it to Mr. Bartlett, but I did speak of it, stating who told me. It passed out of my mind until this matter came up. That was several years ago, and I do not know that I have thought of it since, until they have lately become public. Then I mentioned what was said to me several years ago about it, by some gentlemen connected with the Union Pacific Railroad. I think that was Mr. Alley.

By Mr. SCOTT:

Q. Was Mr. Alley's statement to the effect that these checks, or the stubs of them, had been shown to Mr. Harlan; or did it simply go to the fact that such checks existed?

A. That is all. If it is proper for me to state what I remember was said to me, I will do so.

Q. Have you any recollection of any person who communicated that information to you; that those checks, or the stubs of them, had been shown to Mr. Harlan for the purpose of influencing his action?

A. No, sir; nothing of that kind.

By Mr. STEVENSON:

Q. You were going on to say what you stated. I would like to hear that.

A. What I stated to Mr. Bartlett?

Q. Yes, sir; to those gentlemen.

A. I merely repeated to them what had been stated to me.

Q. What was stated to you by Mr. Alley is what I want.

A. It was stated that in looking over the papers and accounts, there was an impression that it was among the papers that they were trying to settle with Mr. Durant in the controversy they had; that there were found among these papers, as I understood it, a $10,000 check, indorsed by Senator Harlan. That is all I know about it. That I repeated.

By Mr. SCOTT:

Q. A check of Dr. Durant's?

A. I could not tell whether it was Dr. Durant's, or whose it was; but a check indorsed. I think it was a check of the Union Pacific Railroad, but I do not know whether it was by Dr. Durant or anybody else.

By Mr. STEVENSON:

Q. Did you understand Mr. Alley to say that Dr. Durant offered these checks as vouchers to Senator Harlan?

A. I did not go into any detail with him. They were having a settlement, and were having some difficulty, and Mr. Alley remarked to

me that it was a pretty tough case, a bad account. I do not mean to say this in connection with Senator Harlan; but the accounts that had been presented to the Union Pacific Railroad, some of them were outrageous, and in the conversation he said to me that there was among the papers such a voucher as that.

By Mr. SCOTT:

Q. When was that conversation between you and Mr. Alley?

A. I do not know when, but it must have been three or four years ago. He did not undertake to impress upon me the source of it, or anything of that kind. He only spoke of that as being among the papers.

By Mr. STOCKTON:

Q. You speak of Mr. Alley. Will you be kind enough to give us his name?

A. Mr. John B. Alley, late member from Massachusetts.

Q. Was Mr. Alley at that time connected with the Union Pacific Railroad?

A. I do not know, but I supposed he was.

Q. In his conversation with you, I presume, from what you have already said, that he spoke as if he was.

A. He spoke as if he was, and I had the impression that Mr. Alley had been connected with the road from the beginning.

Q. About what time was that?

A. The time of this conversation?

Q. Yes, sir.

A. Well, I cannot fix any time, because I do not know exactly where it was that he said it to me. It was somewhere in this Capitol, and my recollection about it is indistinct. I only remember that he spoke to me about the papers, and among other things spoke of this voucher.

Q. If you can fix the year, it is as much as I want.

A. I would not dare to do that.

Q. Could you not fix that by reference to his term, or your term, in some way, if you met him in the Capitol here?

A. He has been here considerably since he left. It is now six years since he left the Representative office. His successor has been here six years. I think it must have been when he was a member. I am pretty confident of that.

Q. My object is to ascertain whether he was or was not in fact a member of the Pacific Railroad Company at the time of the conversation; and, therefore, I would like to get as near that time as your memory will conveniently come.

A. Well, it is four years, or two Congresses, since Mr. Bartlett was clerk of my committee. I was upon the Committee of Elections. He was the clerk of that committee and is now, of that committee. I have a very strong impression that it was while he was clerk of that committee.

Q. About four years ago, then?

A. It is four years since I was on it.

Q. It must have been some four years, then?

A. If I am correct in the inference that it was while he was clerk of the committee. He had been nearly ten years clerk of the committee, and he and I were on confidential terms.

Q. Your first answer to the question put to you was that you obtained this information from certain persons connected, as I understood you, with the Union Pacific Railroad Company?

A. Yes, sir.

Q. And then, upon inquiry who the person was, you mentioned the name of Mr. Alley?

A. Yes, sir.

Q. Do you think of any other persons of the Union Pacific Railroad Company who talked with you upon this subject?

A. I am not certain of any. I had an impression that Mr. Ames also spoke of it; but I am not quite certain.

Q. Do you think that Mr. Ames was at that time connected with the company?

A. I have no doubt he was, if he spoke at all. I am not certain that Mr. Ames did; but I have an impression that he stated it to me once. I am not certain of that.

Q. Will you recall any other persons who spoke to you about the outrageous bills that had been brought in to that company?

A. I cannot.

Mr. WRIGHT. I wish to see if I understand this matter. It has been suggested that the stumps—the originals or the copies of the checks—given by Mr. Durant to Senator Harlan were shown to him after he was a member of the Senate and while certain matters were pending in Congress, for the purpose of influencing his action, and that it did influence his action. What I wish to know is whether you ever referred to such showing in your conversa tion with Mr. Bartlett or with any person else

A. No, sir; I never knew of that fact until now.

Q. But what you did mention to them was information that you had from Mr. Alley, and perhaps from others, with reference to some trouble in connection with the settlement with Dr. Durant?

A. Yes, sir. I never knew of what you suggested until this moment. That is, if I have I have forgotten it.

By Mr. CLARK, (counsel for Mr. Harlan:)

Q. Did you ever have a subsequent conversation with Mr. Alley upon the subject of this $10,000 draft, in which he said he was mistaken in there being such a draft among the papers of the Union Pacific Railroad?

A. I do not recollect of any, sir.

DAVID W. BARTLETT sworn and examined.

By the CHAIRMAN:

Question. Do you know anything about the presentation to Mr. Harlan at any time of certain checks, or stubs of checks?

Answer. No, sir; I cannot say that I do.

Q. Have you ever communicated such information to other parties?

A. I have an indistinct recollection of telling General Boynton some time ago, I cannot say when—meeting him in the hall of the House—after reading in his correspondence a statement to the effect that Mr. Harlan had received $10,000 from Mr. Durant—that I had heard Mr. Dawes make certain statements about the matter.

Q. About what matter?

A. The $10,000 payment to Mr. Harlan. I think I told him, and it seems to me that Mr. Dawes told me, but I might have got it from some other source, that that check, which, as I heard the story, was a $10,000, was presented to Mr. Harlan, and that he cried over it—that is the way the story came to me—and that he offered to restore the funds.

Q. The check was presented to him?

A. Yes, sir. That was the story that came to me.

Q. Who told you?

A. I think it was Mr. Dawes, but it may have come from some other source. I just heard him say here that he never had heard that, and his statement ought to be conclusive on that point. But what I heard originally about the payment of the money came from Mr. Dawes.

Q. Are we to understand that what you got from Mr. Dawes is all the information you have on the subject?

A. That is all that I recollect. This matter is perfectly indistinct to me; it occurred years ago; I have no idea what year it was. I was clerk to Mr. Dawes's committee, and I suppose in a sort of confidence he told me this story, which I should never have spoken to Mr. Boynton about, but I saw in his correspondence with the Gazette that he had got hold of the facts, as I supposed, and then, thinking that the matter was all out, I thought myself relieved from the secrecy imposed, and I stated something about it.

Q. Well, what did you say? Be definite in what you stated to Mr. Boynton.

A. I have not a distinct recollection about it, but as near as I can recollect I told him that I had information that would bear out his statement.

Q. We do not know what that was. State precisely what you told Mr. Boynton.

A. I cannot do it.

Q. State the substance of it, then.

A. As near as I can recollect I told him that Mr. Dawes told me that Mr. Alley or Mr. Ames—I am not sure which—told him that on a certain occasion upon hunting over the affairs of the Union Pacific Railroad, they made a discovery of this $10,000 check; that they made some fuss about it; that the check was presented afterwards to Mr. Harlan, and that he—as the story certainly was told me by somebody—cried over it—I remember those words—and offered to make restitution. I think those were the exact words that I used to Mr. Boynton.

By Mr. SCOTT:

Q. Do I understand you to say that you saw this statement in the newspapers before you communicated this information to Mr. Boynton?

A. Yes, sir, I do.

By the CHAIRMAN:

Q. What you have now stated?

A. Yes, sir; what I have now stated; that is to say, that General Boynton could not have made his publication on my statement, because I spoke to him after I had seen his newspaper statement.

The CHAIRMAN. That was not the Senator's (Scott) question.

Mr. SCOTT. Yes. That was the question; whether he had seen the statement in the newspaper before he made his statement to General Boynton.

The CHAIRMAN. I had an impression that you intended to ask the witness whether he saw in the paper the statement that he had communicated.

Mr. SCOTT. No, sir. I asked him whether he saw the statement affecting Senator Harlan in the newspaper before he communicated to General Boynton what Mr. Dawes had told him. I so understood him in his first statement, and I wanted to be sure whether I understood him correctly or not. [To the witness.] If you got that statement from anybody else than Mr. Dawes, can you furnish us the name of such other person?

A. I do not now think of any other person. It does not seem possible, from his statement here, that I could have got it from him, yet I know I got the first part of it from him.

By Mr. STEVENSON:

Q. If I understand your statement, you think you got the first part of the statement from Mr. Dawes—that the check had been found among the papers?

A. Yes, sir; I know I did.

Q. You had supposed until to-day that you had also gotten from Mr. Dawes the other statement, that this check was afterward shown to Mr. Harlan and he cried over it?

A. I had until just now; yes, sir.

Q. Did you communicate both statements, that is, the first part of the statement and the last also, to General Boynton?

A. I think I did, together, at the same time.

Mr. SCOTT. What newspaper had you seen it in before you had the communication with General Boynton?

A. That I cannot say. It is possible that I saw it in some paper quoted from his correspondence, but the impression on my mind is that I saw his correspondence. I would not have been likely to have seen his paper unless in his office, but I might have seen the quotation in the Springfield Republican, the paper for which I was corresponding, and which frequently makes quotations from that kind of correspondence.

By Mr. STOCKTON:

(Referring to the prior testimony of the witness.)

Q. You have said that you thought that the matter being all out, you could then speak of it. Does not that enable you to trace the source from which that information came? You say you were relieved from some secrecy?

A. Mr. Dawes, when he told me this, told me that it was a matter I had better not speak of.

Q. Then that alludes to Mr. Dawes?

A. Certainly, sir.

Q. That is what I wanted to know. Can you recall any other source whatever from which you received any other information on that subject?

A. I cannot now. My impression is that there were quite a number of men over in the House at that time who heard of it.

Q. Was Mr. Alley a member of the House at that time?

A. I believe he was.

Q. Was Mr. Ames a member of the House then?

A. That I cannot say.

Q. What time was this? I don't know whether you mentioned that.

A. Well, sir, I have no idea what year. I have not looked at the dates. I think it must have been shortly after Mr. Harlan's next election to the Senate.

Q. It was about six years ago, then?

A. About six years ago; yes, sir.

By Mr. SCOTT:

Q. In reference to that last remark of yours, that it might have been about six or seven years ago, it is due to you to say, before you leave the stand, that one part of this alleged statement refers to a transaction that took place in 1869. The exhibition of the check or stubs of

checks to Senator Harlan is alleged to have taken place in 1869, so that if you wish to correct yourself about dates you can do so.

A. I cannot. My recollection is that the story came to me then.

By Mr. STOCKTON:

Q. Mr. Bartlett, can you fix the date you speak of in any way, as Mr. Dawes attempted to do it? He attempted to do it by reference to the time when you were clerk of the committee. He said you had been clerk of the committee for some ten years, but had not been for some four years past.

A. Mr. Dawes was transferred to another committee. I have been clerk for the same committee all the while.

Q. Can you fix about the time? You say when you had this conversation with Mr. Dawes he was chairman of your committee?

A. Yes, sir.

Q. Can you not fix the date in some way by your relations with Mr. Dawes and your connection with the committee? I merely wish you to refresh your memory if you can do it in that way.

A. I do not see how it is possible.

By Mr. SCOTT:

Q. How long is it since Mr. Dawes ceased to be chairman of the Committee of Elections?

A. I think it is four years. The records will show.

Mr. STOCKTON. See if you can refresh your memory by looking up that matter.

A. I will do so. I ought to explain one matter to the committee, and that is, I did not mean to say I had read all that General Boynton had written about this matter. I mean simply to say that I saw what he published about this payment of money to Mr. Harlan. That is all.

Adjourned to 1.30 p. m.

The committee met pursuant to adjournment.

General JOHN A. LOGAN recalled

By Mr. STEVENSON:

Question. Did you have prior to your taking this stock from Mr. Ames any conversation with him or more than one conversation with him touching the stock before the contract was made? I only want the conversation as to the stock; nothing else. Before you contracted for the stock, which was on the 20th of June, when you determined to take it had you any conversation with him prior to that time about this identical stock?

Answer. I did.

Q. Now, in any of those conversations did Mr. Ames intimate or was there any impression left upon your mind that the subject-matter of that stock would come before Congress?

A. None in the world, sir. I had not the most distant idea of it.

Committee adjourned to 10.30 a. m., Wednesday, February 19, 1873.

WEDNESDAY, *February* 19, 1873.

OAKES AMES recalled.

By the CHAIRMAN:

Question. Mr. Ames, you were interrogated about the checks from Durant to Harlan, somewhat, I believe. Do you know whether those

checks or that sum of money, $10,000, was at any time claimed by anybody—Durant or anybody else—to have been paid in the interest of the Union Pacific Railroad Company?

Answer. Well, I cannot say that I know anything in particular about that check; I never saw that check and never saw the entries on the book. I was not a director in the Union Pacific Railroad until about two years ago, since the road was completed, and some time after all these transactions. I do not know, but I think Mr. Harlan called my attention himself to it the first time I ever heard of it. I do not think I ever heard of it until he mentioned it to me.

Q. Do you remember when that was?

A. No, sir; I do not. It was in the coat-room of the House. He came in there and said something to me about a check. I did not know that he had had any then. He said it was a check of $10,000, and he proposed to pay it back. He said somebody had brought it to his attention—it might have been Mr. Alley—and I suppose he thought I knew about, but I did not. I think he was the first man who mentioned it to me, and he proposed to pay it back. I told him I knew nothing about it; I thought he had, perhaps, had the check for valuable consideration, or something like that, and he had better keep it. I told him I did not know enough about it to say.

Q. How did he say he came by it?

A. He did not tell me how he came by it, but I inferred that it came from Dr. Durant. I do not know for what purpose. I do not know as he said for what purpose.

Q. Have you stated all the conversation that took place with him at that time in regard to this matter?

A. I am a bad hand to repeat conversations; but that is the substance of it.

By Mr. SCOTT:

Q. Have you any information, either as a director of the Union Pacific Road or otherwise, as to whether Dr. Durant claimed credit, or claims to be re-imbursed for that amount of money as paid to Mr. Harlan in the interest of the road?

A. No, sir; I do not know anything about it at all. I think I have heard that he did, but still I do not know; I have no positive knowledge on that subject.

By Mr. STEVENSON:

Q. To whom did Mr. Harlan propose to return the money?

A. It was at that conversation he said so, sir.

Q. I say in that conversation you said he proposed to return it. To whom did he propose to return it?

A. I do not recollect that he said to whom. I supposed to the Union Pacific Railroad, or to Dr. Durant. To whoever paid it, I suppose. I have no right, I suppose, to give inferences. That is not testimony, I believe; so I have learned within a few days. I never had but one conversation with Mr. Harlan on the subject, and it was at that time.

Q. Was Mr. Harlan then a Senator?

A. I think he was, sir. I do not know that, however. I think he was.

Q. I only wish to get at the time of this occurrence.

A. I have no means of fixing the time at all. I understood you had subpœnaed Mr. Alley.

Q. We have.

A. Well, Alley will remember the time. He always remembers dates.

Q. Did Mr. Harlan give you any reason for proposing to return the money?

A. The reason that he was to return it was, I suppose, that it had been found out, or become public, and that there was a scandal attached to it. That was the reason that he gave, if any. I am not sure that he did give any.

Q. Did Mr. Harlan disclose to you the purpose for which it had been given?

A. No, sir; he did not, to my recollection.

Q. Did he tell you how the money had been dis posed of?

A. No, sir; it was a thing I felt a little delicate about saying much about, and told him that he had better keep the money. I did not know anything about it, and I thought it was a delicate subject for me, and did not care to say much about it.

By Mr. SCOTT:

Q. Did he tell you how, or through what channel, it had become public?

A. No, sir; I do not think he did. I do not know, but I have the impression that he said Mr. Alley mentioned it to him.

Q. Who?

A. I think he said that Mr. Alley had mentioned it to him, but I am not sure about that. I think Mr. Alley's name was mixed up in it in some way.

By Mr. STEVENSON:

Q. Is Mr. Alley now in the city, sir?

A. No, sir; I think he is in Boston.

By Mr. SCOTT:

Q. You say this occurred in the cloak-room of the House?

A. Yes, sir.

Q. Can you not fix the date by the session—whether it was last session or the session before that?

A. O, I cannot fix dates at all.

Q. You cannot fix a date?

A. No, sir; I never can remember dates.

Q. I thought you might remember by the session.

A. No, sir; I cannot. I think Mr. Alley will give the dates to you.

By Mr. CLARK, (counsel for Mr. Harlan:)

Q, Do you remember in that conversation whether Mr. Harlan did not say to you that his understanding was the money was a contribution from Mr. Durant, but that if, in fact, it belonged to the Union Pacific Railroad, he did not want any of their money and was ready to obligate himself to repay it.

A. No, sir; I do not recollect that he said that. All I recollect about it is, that he came to me and mentioned the subject. It was new to me. He appeared to be a good deal distressed about it, and proposed to return the money. I do not know whether to Durant or to the company, but the money was to be returned. I advised him to do nothing about it.

Q. Do you remember his producing a paper which he said was an obligation to the Pacific Railroad Company to return the money if it should turn out that there was such a claim against him?

A. No, sir; I never saw any such paper. I am sure of that. He

never showed such a paper to me. There might have been one, of course.

Q. At the time when he said that he proposed to return the money, do you remember asking him how he would do it, and his replying that he could do it through the aid of his friends?

A. I do not recollect that. He might have said so. My only recollection about that is, that he mentioned it to me in the coat-room and appeared to be disturbed about it; it had become public, through some channel.

By Mr. STEVENSON:

Q. How do you know that he was disturbed, sir?

A. By his appearance and his manner.

By Mr. CLARK, (counsel for Mr. Harlan:)

Q. Have the Union Pacific Railroad ever made a claim on Mr. Harlan for this amount of money?

A. Not to my knowledge.

By Mr. STEVENSON:

Q. Some of the testimony goes to disclose that there was a difficulty in settling Durant's account with the company. Has that account ever been settled?

A. I think not.

Q. Is it unadjusted?

A. Mr. Alley and I were both on the committee on that account of Dr. Durant's, and we refused to sign the settlement or approval of the account. A good many items were not explained and we could not untand what they were for.

Do you, as one of that committee, remember that Durant's account a ined an item of this check?

I do not think it did, sir.

Q. Where is his account, as rendered, to be found? I mean Durant's account against the company for sums expended.

A. I do not know. Is it not in some of his testimony?

Q. No, no; I want to know the archives from which a copy of that account could be had, if necessary.

A. I think it has been exhibited in some of the testimony at one of these committees; which one I do not know.

By Mr. SCOTT:

Q. In Alley's testimony?

A. Alley's or Durant's or some of the testimony; Crane's, perhaps. I notice I have in one of those memorandum-books a memorandum of the principal items in that account, that I copied into the back end of the book at the time I examined the account. It amounted to something over four hundred thousand dollars; but Mr. Harlan's name was not in it; I am sure of that.

By Mr. STEVENSON:

Q. What were the specific items that you refused to audit because unexplained in Durant's account?

A. I refused the whole account. I did not audit any of it.

Q. What was the account for?

A. One of the items was a hotel bill at Willard's of $13,000. I think there were two items of hotel bills, one of which was over $13,000, and a draft of Durant and a man by the name of Hay, here in Washington. The most of the items were drafts for so much money, but did

not say what disposition had been made of it. They had been audited and approved by the committee, George C. M. Davis and Bush, perhaps—some previous committee had approved it.

Q. I understand you, then, to say that this account of Durant's against the Union Pacific Railroad Company was made up of items of a hotel bill at Willard's, and for various sums of money advanced by him, Durant, on account of the company.

A. Yes, sir; that he had expended the company's money, and those were the vouchers that he exhibited, which were not satisfactory to Mr. Alley or myself, and we could not approve them.

By Mr. SCOTT:

Q. Do you recollect whether those items covered money alleged to have been paid to any one of the five Senators whose names are embraced in this testimony sent over from the House: Logan, Wilson, Patterson, Harlan, and Conkling?

A. No, sir; none of them. These items in that account were for money expended, I think, before I had anything to do with the road.

By the CHAIRMAN:

Q. Prior to what date?

A. Well, I should think 1864 to 1866—1864 and 1865.

By Mr. SCOTT:

Q. Does that memorandum in the back of your book, of which you speak, contain the items that you rejected?

A. I meant to copy the whole account; we did not approve any of the account; rejected the whole of it.

By Mr. STEVENSON:

Q. Where is that memorandum-book?

A. It is at the hotel.

Q. Were there any vouchers at all accompanying that account of Mr. Durant's?

A. I do not recollect, sir; still there might have been.

Q. Taking the item of $13,000 for hotel expenses at Willard's; did he present the hotel bill?

A. I did not see it, sir.

Q. Were the dates of the various expenditures given in the account of Durant?

A. I think they were, most of them.

Q. (Interrupting.) Was the name of any person in the whole amount of $40,000?

A. The account that we rejected was $400,000.

Q. I understood you $40,000; the account that Dr. Durant presented against the Pacific Railroad to be audited amounted to $400,000, you say?

A. Yes, sir.

A. In that whole amount of $400,000 was there any charge in the account or was there any voucher showing any single person to whom any part of that $400,000 had been paid by Durant?

A. I think there was a man by the name of Hay who had two or three items, and I think that Stewart had one item.

Q. J. B. Stewart?

A. That big fellow.

Q. The man who is now in custody?

A. Yes, sir. But it was a small sum. His account, I think, was five

or six thousand dollars. I think there were but two or three names given. It was "drafts of such a date."

Q. Did the account designate the various periods in which the $400,000 had been expended? I mean Durant's account.

A. It gave the dates of the different items, I think, in the account.

Q. Of how many items, speaking from your best memory, did that account consist?

A. I should think somewhere from ten to fifteen. I think one of the items was over a hundred thousand dollars—"drafts."

Q. Yourself and Mr. Alley were the auditing committee of the Pacific Railroad?

A. No, sir; we were not the auditing committee; but that account was referred to us. I guess McComb was one of the parties. I do not know whether that committee consisted of three or five; but Mr. Alley and I declined to sign it and approve the vouchers of the account.

Q. While you were acting on that committee did you have Dr. Durant before you at any time?

A. I do not recollect. He was about there all the time, in the rooms and office.

Q. Did the committee ask him at any time to explain the specific expenditure by him of this large amount of money?

A. I do not recollect, sir.

Q. You do not remember?

A. No, sir. I had but very little to do with it. I was on the committee, but I did not examine the accounts at all—only these items; and I did not see any justification for such an expenditure.

Q. You do not remember to have called upon Durant, or anybody, to explain it?

A. No, sir.

By Mr. SCOTT:

Q. You and Mr. Alley refused to sign the settlement?

A. Yes, sir.

Q. Was any part of the amount paid notwithstanding that refusal?

A. Well, he had got the money out of the company before.

Q. He had?

A. Certainly; he had taken the money. They could not get it back, if they tried. There was no use to make any great fuss. General Dix and Mr. Cisco were the president and treasurer, and Mr. Durant ran the machine.

Q. Then, as I understand, he was not claiming this money from the company, but accounting to the company for his disbursements?

A. Yes, sir; he claimed that that amount should be allowed him; that he should be credited with it. Mr. Hazard, one of our directors, brought suit against Durant, alleging that Durant had never paid for a large amount of stock placed to his credit to do the company any good. Durant had explained it in this account.

Q. Has he ever refunded the money which you refused to allow him, or has the company ever proceeded against him to recover it?

A. I do not think either. I do not think they have ever got it from him.

By Mr. STEVENSON:

Q. I wish you would explain how Durant got this $400,000 of money belonging to the Union Pacific Railroad Company.

A. Well, sir, he was vice-president and general manager. He had

the absolute control of the finances and everything else about the company.

Q. Who was the treasurer?

A. I think Mr. Cisco was at that time.

Q. How could Durant get $400,000 out of the treasury without some draft or check on Cisco?

A. Well, that's more than I can tell you. The money might never have been in the treasury; but he has charged it as disbursements made by himself.

Q. Did you disclose to Mr. Dawes or to Mr. Bartlett the substance of this conversation between Mr. Harlan and yourself in the cloak-room of the House of Representatives about this check?

A. I have no recollection of it, sir. I do not think I did.

Adjourned.

THURSDAY, *February* 20, 1873—10.30 a. m.

HENRY C. CRANE sworn and examined.

By the CHAIRMAN:

Question. Mr. Crane, are you at the present time, and have you heretofore been associated, in business or otherwise, with Mr. Thomas C. Durant?

Answer. Yes, sir.

Q. In what relation?

A. I am his confidential man—confidential clerk—or whatever you might call it.

Q. Covering what period?

A. I have been with the doctor for about eighteen years, I think.

Q. How long?

A. Eighteen years.

Q. Were you acquainted with his business as managing director or vice-president of the Union Pacific Railroad?

A. I know that he was a director and managing agent for the company.

Q. Were your relations to him confidential and intimate?

A. Well, I had nothing to do with that especially, sir. He has business outside of that which I was engaged in.

Q. Do you mean to say that your relations to him in regard to that were not of a confidential character?

A. No, sir; I had no special arrangement about it at all. I knew of his being the managing director of the road.

Q. Do you remember at any time in the year 1867 or 1868, or thereabout, or, say at an earlier date—in fact at any time—drawing a check on account of Mr. Durant in favor of Senator Harlan?

A. No, sir; I had an account myself on which I drew a check in favor of Mr. Harlan.

Q. Are you able to fix the date?

A. Yes, sir. The 22d day of December, 1865

Q. What was the amount?

A. Five thousand dollars.

Q. Payable where?

A. At the bank.

Q. What bank?

A. At the Corn Exchange Bank, in New York.

Q. To whom was it delivered?
A. I think it was sent to Mr. Harlan.
Q. Sent to him where?
A. By mail here.
Q. To Washington?
A. Yes, sir.
Q. Payable to him or order?
A. Yes, sir.
Q. Did you ever see the check afterward?
A. I think I have, sir; when it returned from the bank.
Q. Do you know to whom it was paid?
A. I do not. I suppose it was paid to Mr. Harlan. It was to his order, and required his indorsement to get it.
Q. Do you remember whether his indorsement was upon it?
A. I do not know, sir.
Q. You have not that check?
A. No, sir.
Q. Do you know whether it is among your papers?
A. I do not know whether it is or not. I suppose so. It was made payable to Mr. Harlan's order, and could not be used without his indorsement.
Q. That check was signed by yourself?
A. Yes, sir.
Q. Was that your personal check?
A. No, sir. I kept, and always have kept, an account in that bank in my own name, in which I deposited Mr. Durant's money and my own, and drew checks for myself and for him.
Q. Whose funds was that drawn against?
A. Thomas C. Durant's.
Q. Drawn by you as his clerk against his funds in that bank in your name?
A. Yes, sir.
Q. Was there any other check of a similar description ever drawn to your knowledge?
A. Not that I know of, sir, except what I have heard said. I have heard said that Mr. Durant gave a check, but I did not.
Q. You say you know nothing of any other check?
A. I have heard of another check being drawn. I did not make any other check.
Q. Have you any knowledge of it from Mr. Durant's books?
A. No, sir.
Q. Have you any knowledge except hearsay?
A. That is all, sir.
Q. Have you any knowledge of it from the bank account.
A. No, sir; I undertook to find something about it and could not find anything before I started, after I got the telegram as to what was wanted.
Q. You examined the books to see; what books do you mean?
A. I examined the check-book.
Q. To see what?
A. To see if there was any check drawn as was stated. I could not find any.
Q. What years?
A. Eighteen hundred and sixty-five and eighteen hundred and sixty-six, along about the time that mine was drawn.
Q. You found nothing?

A. No, sir.
Q. Did you find the check which you drew?
A. No, sir; I did not look for the check. I took the check-book and looked the stumps drawn, where the checks are all entered.
Q. Did you find your own?
A. I found on my own check-book my own entry, sir.

By Mr. SCOTT:

Q. Did Mr. Durant keep a separate check-book?
A. He used to keep an account himself that I had nothing to do with in any shape. I never had anything to with it except to deposit money to that account when he directed it.

By the CHAIRMAN:

Q. Why did you draw this check?
A. I had instruction from Mr. Durant to send Mr. Harlan a check for $5,000. I did so.
Q. Out of what funds?
A. He was out of town, sir, and I drew on my own account instead of his.
Q. When was that direction given?
A. I should say about the same time that I sent that check.

By Mr. STEVENSON:

Q. Where did Dr. Durant keep his bank-account?
A. At the Corn Exchange Bank.
Q. The same bank?
A. Yes, sir.

By the CHAIRMAN:

Q. Do you know whether Dr. Durant had an account with the company?
A. What company, sir?
Q. With the Union Pacific Railroad Company.
A. I know that he was in the habit of lending them money.

By Mr. WRIGHT:

Q. You say you heard of another check?
A. Yes, sir.
Q. Was it your information that that other check bore date before or after the one you issued?
A. I do not know, sir.
Q. You do not?
A. No, sir.
Q. You have no means of knowing?
A. No means of knowing.
Q. You say you drew this check at the instance of Dr. Durant?
A. Yes, sir.
Q. At his direction?
A. Yes, sir.
Q. Did you understand it to be a matter between him and Senator Harlan? Did you understand the circumstances of this thing?
A. I do not know anything about any circumstances at all. All I know is that I had instructions to draw the check. I drew it, and charged it to Dr. Durant.
Q. You know nothing about what it was for?
A. I know nothing about it, sir.

Q. And the one you drew was the 22d of December, 1865?
A. Yes, sir.
Q. That was sent at once to him?
A. Yes, sir.
Q. Have you any means of knowing when it was paid?
A. I do not know that.

By Mr. SCOTT:

Q. You were at one time a director in the Union Pacific Road yourself?
A. Yes, sir.
Q. During what period?
A. I cannot tell you. I did not take much action. I was put in there to fill a vacancy.
Q. What year was that in?
A. I do not know.
Q. Can you not fix the year?
A. It might have been 1867. I was around the office of the company all the time. Mr. Durant's office was right there, and I have no way to fix any special date except by looking at their records.
Q. You think it was after the check was drawn by you and sent to Mr. Harlan that you were a director?
A. O, I think so. I have no doubt of it.
Q. Have you any knowledge, then, either as a director of the road, or as the agent of Mr. Durant, whether he claimed this $5,000 as a credit to which he was entitled in his settlement with the Union Pacific Railroad Company?
A. I know he never did, sir, because that would have come in my province. If he made any claims to the company I should have known about it.
Q. You have already stated that your own funds and those of Dr. Durant were mingled in the account kept in your own name?
A. Yes, sir.
Q. Had he a separate bank-account kept in his own name?
A. Yes, sir.
Q. Would your relation to him as his business agent enable you to know whether he drew upon that account in favor of Senator Logan?
A. No, sir. That is just what I said. It might have been drawn without my knowledge.
Q. Have you, as his agent now, access to the stubs of his check-books?
A. I have not, as to that one, sir. I will not say, positively, that the doctor's account was running at that time. I know that he did have a private account there that I had nothing at all to do with; but as I do not find any entry on my checks that I have had to do with, I say it must have been something somewhere else than where I had control or knowledge.

By Mr. STOCKTON:

Q. You said, in answer to a question by Senator Scott, that you knew Mr. Durant had never presented any claim to the Union Pacific Railroad for this money?
A. Yes, sir.
Q. Do you mean to go as far as that?
A. I do not want to modify that, I think, sir.
Q. Do you *know* it?
A. I know that the accounts against the Pacific Company were kept

by myself on behalf of Dr. Durant, and for that reason I think there has been no claim.

Q. You think so, of course. There is no doubt about your thinking so; but could not Dr. Durant have brought in a bill in which that was included—or somebody for him—and you not have any knowledge of it?

A. I do not believe he could.

Q. We have testimony before us that it was presented to the railroad, and therefore I do not want you, unless you mean to have it so, to put yourself down as saying that you *know* it.

A. I have no knowledge of this check.

Q. That is what I supposed you meant to say, and that is all you can say properly. I am sure from what you have said that you have no knowledge, but I did not want you to say you knew it had not been done, because other people say it has, and there may be a question about that.

A. I have no knowledge of it.

By Mr. STEVENSON:

Q. Did you keep the accounts of Dr. Durant against the Pacific Railroad Company?

A. Yes, sir.

Q. What was the amount of the alleged indebtedness which Dr. Durant claimed he had expended for the Union Pacific Railroad Company?

A. We had various amounts, sir. There was a running account; sometimes it was larger and sometimes less.

Q. Mr. Alley and Mr. Ames were part of an auditing committee, as Mr. Ames swears, to settle the account of Dr. Durant against the Pacific Railroad Company which was presented for settlement. Do you know the amount of that?

A. No, sir. I think it is in the neighborhood of $400,000.

Q. Four hundred thousand dollars?

A. Yes, sir.

Q. You say you were familiar with the items of that account, as you kept them?

A. I know what the suspense account was; yes, sir.

Q. Will you state to us, as far as your memory will enable you, of what items that $400,000 was composed?

A. I have no way to tell, sir. I saw the testimony in the other cases, and that was right.

Q. Where would that account be found?

A. I suppose in the hands of the company.

Q. Did you make out that account?

A. My impression is that I did, but I do not know certainly.

Q. Was it for money expended by Dr. Durant for the Union Pacific Railroad Company?

A. So I was told, sir.

Q. Did Dr. Durant keep any books?

A. Do you mean himself?

Q. Yes. When he advanced money for the Union Pacific Railroad Company, was there any charge made; from what was the account of $400,000 taken; how was it made up?

A. From data furnished by him.

Q. Do you remember any items in that account; are you able now to recall any items?

A. I recollect of a charge of $112,000.

Q. A single item?

A. Yes, sir.

Q. For what?

A. I think it was settling some claim for bonds that he had; some trade he had made with parties.

Q. Do you remember any items in that account for money expended by Dr. Durant in Washington?

A. Yes, sir.

Q. State some of them.

A. I recollect one, sir. I recollect paying a bill at Willard's—quite a large bill.

Q. Do you recollect any other?

A. No, sir.

Q. Do you remember an item to Joseph B. Stewart, a lawyer in this town?

A. I do not recollect it, except from what I have heard said down here, sir.

Q. Do you remember that in the account there was any check charged as paid to Senator Harlan?

A. I do not think there was, sir.

Q. I do not mean that his name appeared in the account.

A. I understand you.

Q. I mean whether any of the amounts charged by Dr. Durant included any money advanced to him.

A. I have answered that once or twice before. I do not think there was.

By Mr. SCOTT:

Q. Do the names of any members of the United States Senate appear in that account as the recipients of any part of the disbursements?

A. I think not, sir. I am sure not. To my knowledge it had nothing to do with them.

Q. If the name appears of any member of the Senate at that time, or of the present time, give it to us, if you can.

A. I do not know of any name, sir.

Q. You spoke of $112,000 of bonds that had entered into a trade with certain parties.

A. I never knew the parties, sir. All I could tell was, that there was that sum of money paid. I think it was $120,000. They have but $112,000 in the paper, however.

Q. Have you no knowledge of who the parties were?

A. No, sir.

Q. Do the papers themselves show who they were?

A. I do not recollect. I do not think they do. I do not know anything about that.

Q. You referred to statements of this expense in the testimony?

A. Yes, sir.

Q. In what testimony?

A. In the testimony used in the other two committees.

Q. Whose testimony?

A. They had a suspense-account there.

Q. In the testimony of what witness is it?

A. I heard Mr. Durant testify about that and some of the other gentlemen connected with the road.

Q. It is important to us that we should know, if that list appears in the other, testimony in whose name it is.

A. There is nothing but a list of the account.

Q. I am speaking of the name of the witness who gave that list.
A. I think Mr. Durant had the account brought before him.
Q. In which committee?
A. Mr. Wilson's.

By Mr. STOCKTON:

Q. Where is Mr. Durant now?
A. In Europe.
Q. When did he sail?
A. A week ago, last Saturday.

By Mr. STEVENSON:

Q. There is still a matter I do not exactly comprehend. I understand you to say you made up this suspense-account of Dr. Durant against the Pacific Railroad Company, or that you think you made it up?
A. I think very likely that I did, sir, but I do not say I did.
Q. You do not say you did?
A. No, sir. I had book-keepers in the office, who did a good deal of the writing.
Q. From whose books and from what books were the items in that suspense-account taken?
A. I think they were taken from no books at all, sir.
Q. From no books?
A. No, sir.
Q. Then explain to the committee how the account was made up.
A. I should say that, if Mr. Durant came and told me that he had made disbursements for any account, I should make out the account according to his directions, and present it wherever it was to be presented, and they would know whether it was right or not.
Q. How was the account made; for instance, if Mr. Durant had advanced $112,000, how would that be entered on this account?
A. If Mr. Durant advanced to the company $112,000, it would be charged to the company on his books and credited to him, without I had paid the money out myself.
Q. You do not comprehend me. In making out the suspense-account, would the item be "to cash advanced to Dr. Durant," so much?
A. Yes, sir.
Q. The person to whom it was advanced did not appear on the suspense-account?
A. I think the doctor's name is mentioned several times on the suspense-account.
Q. Durant's name?
A. Yes, sir.
Q. But "to cash advanced," without saying to whom?
A. My impression is that all the vouchers for the disbursements went with the account.
Q. Do you remember any vouchers?
A. No, sir. It is so long ago, I do not recollect?
Q. There are no memoranda or books in your possession or in Dr. Durant's possession which would show these items, are there?
A. None that I know of, sir; none in mine.
Q. You suppose that suspense-account is in the possession of the company?
A. I suppose so.

The CHAIRMAN:

(Referring to House testimony, page 381.) Will you look at this account and say whether it is the one to which you referred?

A. Yes, sir; that is the one.
Q. Is there any other suspense account, to your knowledge?
A. No, sir.

By Mr. SCOTT:

Q. I notice on that suspense account, the item of $112,000 to which you refer is dated the 29th of December, 1865; can you say whether or not the $5,000 check of which you have spoken is a component part of that item?
A. I have said as plainly as I could, sir, that I do not think that the $5,000 is embraced in that account at all, and has nothing to do with it.
Q. Looking at that item, can you undertake to say what does enter into it?
A. No, sir.

By the CHAIRMAN:

Q. I thought you spoke of it being bonds?
A. It was a settlement of some trade for bonds. I do not know that myself; what I am telling about that is hearsay.

By Mr. STEVENSON:

Q. I will read you the statement of the suspense account: "1864, August 1st, T. C. Durant, $44,549.45." Do you know any of the items of that charge?
A. No, sir.
Q. "August 25th, T. C. Durant, $4,000." Do you know what that was for?
A. No, sir.
Q. "September 1st, T. C. Durant, $66,325."
A. I do not know anything about that.
Q. "September 14th, T. C. Durant, $13,128.13."
A. My impression is that that is Willard's bill.
Q. You think the item of the 14th of September, of $13,128,133 is Willard's bill?
A. I think so; yes, sir.
Q. On the same date there is a charge of $6,500. Do you know anything about that, sir?
A. I do not know what it is for, sir.
Mr. STOCKTON. What year is that?
Mr. STEVENSON. Eighteen hundred and sixty-four.
Q. On the 21st of September, of the same year, C. S. Bushnell, $5,751.63. Do you know what that was for?
A. It was money paid Bushnell, I should say. I do not know myself.
Q. On the 26th day of September, "G. T. M. Davis, $3,000."
A. I do not know about it, sir.
Q. Who was Mr. Davis?
A. He was an agent for the purchase of supplies.
Q. "September 29th, James C. Kennedy, $2,000." Do you know what that was for?
A. I do not.
Q. "September 29th, 1864, Alexander Hay, $4,000."
A. I should say the same thing. I do not know, sir.
Q. "September 30th, T. C. Durant, $50,000." Do you know any of the items of the charge?
A. I do not, sir.
Q. "September 30th, T. C. Durant, $8,000." You know nothing of that?

A. I do not.

Q. "March 21st, T. C. Durant, $30,000."

A. I will have to make the same reply. I do not recollect anything about it.

Q. "March 21st, H. S. McComb, $1,000; 1865, December 29th, T. C. Durant, $112,000." You think that was a bond transaction?

A. I think it was something to do with bonds; mere hearsay. I think, too, that it was $120,000 instead of $112,000.

Q. "March 30th, 1866, special committee, $50,000. May 10th, 1866, special committee $20,000." Will you tell us, if you can, in which of the items I read the money paid to J. B. Stewart is included?

A. I cannot tell you, sir.

Q. Have you any information which will enable you to state how much the item of the 29th of December amounted to?

A. I have not, sir. It was all done independent of any knowledge of mine, sir. It is all hearsay about the bonds any way.

Q. You heard Mr. Durant's testimony before one or the other of these committees?

A. Yes, sir.

Q. Did you hear him say that he had given Senator Harlan two checks of $5,000 each?

A. No, sir. I read that in the paper. I was not here when he gave that testimony.

Q. You were not?

A. No, sir.

Q. You know of nothing but one check?

A. I know of one check, and hearsay of the other. That is all I know.

By Mr. SCOTT:

Q. I want an explanation about one matter. Perhaps I understand it, but I want to get it on this record. I want to ask you, who have been a director in the Union Pacific road, what is the meaning of a suspense account; what kind of items enter into it?

A. They do not know what to do with the account. They are waiting for a division to see what they shall charge the account to, whether equipping, expense, construction, or what.

Q. You mean, then, really, a *suspended* account?

A. Yes, sir; but, if you notice, that has been called a suspense account all through.

Q. It was an unusual term to me in book-keeping, and therefore I wanted it explained. Did you know, when you were a director of the road, or can you now say from your connection with it, what kind of items were understood to enter into that account? How had these items been expended?

A. Well, I do not know, sir. I think there was a subdivision of the account made by the book-keeper that they had in the office, and set aside for settlement. I have no knowledge about it.

Q. Did it ever embrace the expenditures for constructing the railroad, or paying officers of the road, or was it understood to embrace the expenses of procuring legislation, or influencing public sentiment? Let us understand what did enter into these items, if you know.

A. I do not know, sir, anything about it.

By the CHAIRMAN:

Q. Can you tell to what account this was charged?

A. No, sir.

Q. This account was audited by the special committee?

A. Yes, sir.

Q. Do you know to what account it was ultimately charged?

A. I do not.

Q. It appears, on page 382 of the House committee testimony, that, on motion of Mr. McComb, under date of New York, September 11th, 1867, it was "*Resolved*, That the report of the special committee in respect to certain suspense accounts shall be approved and adopted, and that said accounts be closed and charged to construction." Do you know whether that was so or not?

A. I do not know, sir. I suppose it was. I do not know anything about it.

By Mr. STOCKTON:

I read to you from page 381 of the House committee testimony:

"*Resolved*, That Oliver Ames, president *pro tem.*, and John J. Cisco, treasurer, be a committee to inform themselves in regard to the details of the so-called suspense account of this company; also to audit any further claims on this account, and *that their statement to this board that the facts in the premises are satisfactory to them shall end all further discussion*, and that the accounts shall be closed and charged to construction."

Now, I want to know, from your own knowledge, or any connection you had with the company while you were a director, or otherwise, if you ever heard any discussion about that account?

A. In the board?

Q. Anywhere.

A. You know, sir, there was a quarrel between the two parties in the road, and there was all kind of talk going on.

Q. Which were the two parties?

A. The Boston crowd and the New York parties.

Q. Then you have heard this account discussed?

A. I have heard it talked; not specially discussion, but talking about it.

Q. Did you ever hear it discussed in the board?

A. No, sir.

Q. Do you recollect the passage of that resolution?

A. I do not.

Q. It is dated January 4, 1867.

A. I do not recollect it, sir. I have seen it on the records.

Q. You certainly recollect the incident that this thing appears to have created some discussion. You must recollect the fact of when it was arranged and settled?

A. I cannot recollect the date. I know there was a great deal of talk about that account, and it was finally settled by a committee appointed to investigate and satisfy themselves about it.

Q. I do not mean to ask you if you recollect the precise date.

A. I know that it was discussed.

Q. Then there was a committee appointed, and it was settled?

A. I do not recollect that there was a committee. I know that there was by the records, and that is all, sir.

Q. You mentioned that you kept an account in the bank, partly your account and partly Durant's. How often did you settle with him?

A. That account was in my name, and was his account just as much as the one I kept in his own name. I kept it for our own convenience in my name.

Q. How often did you settle with him?

A. I never settled at all. Charged whatever money came in or went out for that account on his books, as in his own check-book.

Q. How often did you settle with the bank?

A. Sometimes a month, or two months, as they wanted the bank-book written up.

Q. Have you ever looked for that check?

A. No, sir.

Q. Do you keep your checks?

A. I try to.

Q. Have you got your checks generally during all that period?

A. I think so, sir.

Q. Has nobody ever asked you to look for that check?

A. No, sir.

Q. Then how do you know Mr. Harlan ever got that money or used the check?

A. I know that the check was made to his order and that he could not get the money without he indorsed it.

Q. How do you know that he got the money?

A. I do not say that he did.

Q. Then you do not know whether that $5,000 was paid or not?

A. Yes, sir.

Q. How do you know that?

A. Because my bank-book would have shown that it had not been paid. I should have had $5,000 more than I ought to have had.

Q. The only reason you know it was paid is that you balanced your account?

A. Of course.

Q. And you know it would not balance otherwise?

A. No, sir.

Q. Otherwise you do not know that it was paid?

A. I do not know, sir. I never saw him get the money.

Q. When do you propose to go back to New York?

A. I thought I would return on Tuesday of next week.

Q. Could you send to New York and have that check hunted for and sent to us?

A. I can, sir, if you wish it.

Q. Will you do so?

A. Yes, sir.

Q. That check must be in your accounts; you must have it?

A. It ought to be among my vouchers, sir.

By Mr. SCOTT:

Q. You have stated that one item you think is a mistake; that the $112,000 ought to be $120,000?

A. Yes, sir; that is my recollection of it.

Q. In looking at the same testimony a little further on, on page 384, I find on the same date, December 29th, a statement of $120,000 of money received by Mr. Durant or by others on his orders, from the Union Pacific Railroad Company. Are you confounding the money received by him with the money for which he claimed credit? They both bear date the same day.

A. My recollection of that account is that the $112,000 put in the suspense account was $120,000, and got changed by some error in drawing off the account.

Q. I notice the dates are the same. He appears to have drawn $120,000 on that day.

A. I do not know whether that is the same thing or not.

Q. It is the same day for which he claims credit for disbursing $112,000, as I understand it?

A. I do not know about that, sir.

The following communication and inclosure from Morton, Bliss & Co. were read by the chairman:

"OFFICE OF MORTON, BLISS & CO.,
"*New York, February* 19, 1873.

"SIR: In compliance with your request, we have the pleasure to inclose herewith the original press-copy of a letter addressed by us to Hon. J. W. Patterson, on the 12th May, 1871; also a press-copy of a receipt in the handwriting of Mr. Oakes Ames, dated May 12, 1871, which we find in one of our letter-books of that date, showing beyond doubt that the Credit Mobilier stock and the $2,000 Union Pacific income-bonds were left with us by Mr. Ames, personally, for account of Mr. J. W. Patterson.

"We cannot find any other letters or papers bearing upon the matter.

"We remain, sir, yours, very respectfully,

"MORTON, BLISS & CO.

"To Hon. LOT M. MORRILL,
"*Chairman, Washington, D. C.*

"P. S.—We shall be obliged by your returning the inclosures at your convenience."

"MAY 12–1.

"Received of Oakes Ames two Union Pacific income-bonds (No. 1355 & 1356) for one thousand dollars each, and certificate (No. 338) for thirty shares of stock in the Credit Mobilier of America, for Hon. J. W. Patterson, and to be accounted for to him.

"MORTON, BLISS & CO.'

"12TH MAY–1.

"DEAR SIR: We beg to inform you that we have received from the Hon. Oakes Ames two Union Pacific income-bonds (No. 1355 and 1356) for $1,000 each, and certificate (No. 338) for thirty shares of stock in the Credit Mobilier of America, which we hold for your account.

"We are, dear sir, yours truly,

"MORTON, BLISS & CO.

"The Hon. J. W. PATTERSON,
"*Washington, D. C.*"

OAKES AMES recalled.

By the CHAIRMAN:

Question. Will you be good enough to look at that paper, (being receipt from Morton, Bliss & Co., to Oakes Ames, of date May 12.)

Answer. That is my handwriting.

Q. It is?

A. Yes, sir.

Q. Does that refresh your memory about the transaction?

A. I do not recollect it at all, now, but it must be so.

By Mr. STOCKTON:

Q. Are you in the habit of writing on paper like that?

A. No, sir.

The CHAIRMAN. O, that is a letter-press copy, Mr. Ames.

Mr. STOCKTON. I want to find out whether you have any recollection of the transaction. It is your handwriting, but it is a letter-press copy.

A. I telegraphed home, at the suggestion of Mr. Stevenson, to know when I was in New York, and they reply that I was there on the 11th and 12th. I went there to attend a meeting of the New Orleans, Mobile and Texas Railroad Company and the Union Pacific Railroad Company.

By the CHAIRMAN:

Q. I will read this letter to you, and see if you have anything to say. It is addressed to me, and is dated February 19, 1873; signed Morton, Bliss & Co.:

"OFFICE OF MORTON, BLISS & CO.,
"*New York, February* 19, 1873.

"SIR: In compliance with your request, we have the pleasure to inclose herewith the original press-copy of a letter addressed by us to Hon. J. W. Patterson, on the 11th May, 1871; also a press-copy of a receipt in the handwriting of Mr. Oakes Ames, dated May 12, 1871, which we find in one of our letter-books of that date, showing beyond doubt that the Credit Mobilier stock and the $2,000 Union Pacific income-bonds were left with us by Mr. Ames, personally, for account of Mr. J. W. Patterson.

"We cannot find any other letters or papers bearing upon the matter.

"We remain, sir, yours, very respectfully,
"MORTON, BLISS & CO.

"To Hon. LOT M. MORRILL,
"*Chairman, Washington, D. C.*

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"MORTON, BLISS & CO."

"12TH MAY-1.

"DEAR SIR: We beg to inform you that we have received from the Hon. Oakes Ames two Union Pacific income-bonds, (No. 1355 and 1356,) for $1,000 each, and certificate, (No. 338,) for thirty shares of stock in the Credit Mobilier of America, which we hold for your account.

"We are, dear sir, yours truly,
"MORTON, BLISS & CO.

"The Hon. J. W. PATTERSON,
"*Washington, D. C.*"

Q. What is your recollection, if anything, about leaving those securites in person?

A. I have no recollection at all of it, sir.

Q. This does not refresh your recollection?

A. I have no recollection of it at all. This is a receipt signed by Morton, Bliss & Co., and undoubtedly it is correct, but it has gone from my memory entirely.

Q. Did you take a receipt from Mr. Patterson in Boston on the 6th of May, in which those securities are recited?

A. Yes, sir.

Q. Are we to understand that they were not at hand at that time, and can you tell where they were?

A. Well, my recollection is that Mr. Patterson was in Boston, and wanted to settle up this matter, and wanted me to bring him, and I carried him, I think. I don't know but I made that settlement with him at that time, and paid him so much money, and there was due——

Q. Those bonds?

A. Those bonds.

Q. Now, where were they at that time?

A. Well, I can't recollect.

Q. Do you not know where you kept your securities?

A. I kept them at Easton.

Q. You seem to have been in New York on the 12th of May?

A. Yes, sir.

Q. And those bonds got into the hands of Morton, Bliss & Co., through your instrumentality. How did you get them there?

A. It might have been that Mr. Patterson asked me to leave them there.

Q. And that you did leave them there?

A. I should infer so from this, but I have no recollection of it at all.

By Mr. SCOTT:

Q. Have you ever examined to see whether you have the receipt of Morton, Bliss & Co., of which that is a copy?

A. No, sir.

By Mr. STOCKTON:

Q. I wish to see if something I shall say to you will refresh your memory at all. This receipt reads:

"Received of Oakes Ames two Union Pacific income-bonds, Nos. 1355 and 1356, for one thousand dollars each, and certificate No. 338, for thirty shares of stock in the Credit Mobilier of America, for Hon. J. W. Patterson, and to be accounted for to him.

"MORTON, BLISS & CO."

That receipt is written in your handwriting, but signed by Morton, Bliss & Co.?

A. Yes, sir.

Q. Now, recognizing your handwriting, this being a press-copy, does it not recall to you whether that was written in their office or not?

A. I have no recollection of it at all.

Q. Why should you write a receipt for Morton, Bliss & Co. to sign, when their office is full of clerks to do that kind of work?

A. Well, I don't know. Mr. Patterson might have given me the bonds to deposit, and I might have written the receipt, but I have no recollection and no knowledge of such a receipt.

Q. It does not recall anything?

A. No, sir.

By Mr. WRIGHT:

Q. Have you ever, in any way, had any search made to see whether the original receipt is among your papers?

A. No, sir. I did not know that I had any such thing. It left my mind entirely.

Q. You have no recollection of ever seeing any such paper among your papers?

A. No, sir; but that is a *fac-simile* of my handwriting. There is no question about that.

By Mr. STOCKTON:

Q. Here is a letter of the same date, May 12, to Hon. J. W. Patterson, as follows:

"12TH MAY—1.

"The Hon. J. W. PATTERSON,
Washington, D. C.:

"DEAR SIR: We beg to inform you that we have received from the Hon. Oakes Ames two Union Pacific income-bonds, (Nos. 1355 and 1356,) for $1,000 each, and certificate (No. 338) for thirty shares of stock in the Credit Mobilier of America, which we hold for your account.

"We are, dear sir, yours, truly,

"MORTON, BLISS & CO."

Does that recall anything to you?

A. No, sir. I have no recollection of leaving them with Morton, Bliss & Co., at all. I have no recollection about it in any way; but I have no doubt I did leave them from that receipt. Perhaps I might have sent that receipt to Mr. Patterson to show that I had delivered them; that may account for it not being among my papers.

Mr. STOCKTON. No. That receipt, as I told you before, was a press-copy, and I insist that it must have been written in their office; that is a mere theory, of course, but it is because it was copied by their press and you must have had the original.

A. There can be no question about it at all, but still I have no recollection of doing anything about it in their office.

Adjourned.

SATURDAY, *February* 22, 1873.

Senator PATTERSON recalled.

By the CHAIRMAN:

Question. Since you were called the other day, Mr. Patterson, the committee have received this copy of a letter, [handing to witness copy of letter from Morton, Bliss & Co. of May 12, 1871, addressed to Senator Patterson, at Washington, said copy having been heretofore introduced in the testimony of Mr. Morton.] I also hand you copy of receipt of May 12, 1871, signed Morton, Bliss & Co., [heretofore in evidence.] The committee deem it their duty to present these papers to you for any explanation or remarks you may desire to make in regard to them.

Answer. I have no remarks to make, except that I have no recollection of ever having seen them.

Q. Have you any recollection of having received the letter of that date?

A. No, sir; I have no recollection of it whatever.

Q. Were you in Washington at that date?

A. I must have been, I suppose. We had an extra session, and I suppose I must have been here.

Q. You were in attendance upon that extra session?

A. Yes, sir. I never saw that certificate of stock until it was sent to me. I never had seen any certificate of that stock before it was sent to me by Mr. Morton.

WASHINGTON, D. C., *February* 22, 1873.

JOHN B. ALLEY sworn and examined.

By the CHAIRMAN:

Question. I desire to direct your attention, Mr. Alley, to statements made by Thomas C. Durant, to which your attention may have been drawn before the committee of the House, in which, in substance, he states that he had sent $10,000, in two checks, to Senator Harlan for election purposes, and to inquire of you whether, to your knowledge, that was ever paid by the Union Pacific Railroad Company, or claimed that it should be paid by Mr. Durant?

Answer. I heard Mr. Durant make that statement, but I have no knowledge that it ever was paid; and, in fact, I know but very little about it. It occurred some time before I was even a stockholder of the company, and some years before I was a director.

Q. When did you become a stockholder?

A. I think in the summer of 1866.

Q. And a director, when?

A. A director in the autumn of 1867.

Q. This is said to have occurred in December, 1865.

A. Well, my recollection is that it was some time before that. After I became a stockholder my attention was called to it by a statement from one of the Ameses, I think; I thought it was Mr. Oakes Ames, but I am not certain; in fact it was a great while ago, and I am not entirely certain who first informed me, but some one who I supposed knew about it; and this was the statement made to me: That Mr. Durant had sent $10,000 to Iowa to aid Mr. Harlan in his election. I had some conversation with Mr. Oakes Ames about it at that time, and Mr. Ames asked me what I thought about it. I am not certain whether it was before or after. I subsequently had a conversation with Mr. Harlan, which I had forgotten until I saw by the papers it was said that I did have, and then it came to my recollection, and I remember now having a conversation with him. Whether he sought me, or I him, I do not know.

Q. With Mr. Harlan, you say?

A. Yes; and Mr. Ames asked me what I thought of it, and I told him I thought it was a very improper and outrageous thing, and ought not to be allowed. It was stated that he had sent this money to Iowa, and that he then wished the Pacific Railroad Company to pay it. I had some conversation with Mr. Harlan——

Q. You thought it was an outrageous thing. What was outrageous?

A. For the company to be called upon to pay any such bill as that, and a very improper thing. Mr. Ames said he agreed with me. I had this conversation, my impression is, at his request, but I am not certain about that.

Q. Whose request?

A. Mr. Ames; and I remember distinctly what Mr. Harlan said to me; it was this: I remarked to him, as I did to Mr. Ames, that it was a very improper thing for the company to do, and very outrageous, and he said "Yes, that was so." He said, "If it is a company affair; if that

was furnished by the company," said he, "I want to pay it back. I do not want to receive any money from the company for any such purpose; and," said he, "I will return it at once if that is so." Well, I told him I had nothing to do with the company. I was not a director at that time, and of course I had no particular knowledge of it, only as I understood that this attempt or desire or proposition on the part of Mr. Durant to charge it to us, which I characterized as being an outrageous thing, and told Mr. Ames, either in that conversation or a subsequent one, that I would not submit to it if I was he, and he agreed with me entirely about it. I do not know that I have heard the subject mentioned from that day to this. I subsequently became a director, and I have never seen anything on the books that would lead me to suppose that the company ever paid it. I understood Dr. Durant to say—I have not read his testimony, but my recollection of it, as I heard him testify, was—that he paid it himself out of his own money.

Q. Did Dr. Durant at any time to your knowledge, make claim against the company for it?

A. I never heard anything about it since, and I know nothing further than what I have related with regard to it. My recollection is not very distinct where I got my first information from; but, at any rate, I got it from what I supposed to be good authority. The transaction took place, as I have remarked heretofore, before I was a stockholder, and this conversation with Mr. Harlan took place previous to my being a director.

Q. Do you know whether you received the information from Mr. Ames, or whether you communicated to Mr. Ames the information which you had received?

A. I could not say positively about that. I only remember that I got it from what I regarded as an authentic source, and when I spoke to Mr. Harlan about it he said that he had received money or checks from Dr. Durant, and I understood him to say he did not suppose the company had anything to do with it; and he agreed with me that it was a very improper thing if the company had, and he desired to return it. That is my recollection of it. I never had a word of conversation with Mr. Harlan about it since, and I have not seen his testimony. I do not know what his testimony is. I saw it in the papers, and I suppose it was substantially correct.

By Mr. SCOTT:

Q. Before Dr. Durant was examined as a witness before the House committee, had you any conversation with him at all on the subject of these $10,000 checks?

A. I do not remember ever to have had a word of conversation with Dr. Durant on the subject, before or since; and I do not think I could have got my information from him in the first place. I had no relations with him at that time, and I do not know that I knew him; but I got my information from a source which I believed entitled to credit. I felt indignant about it, and I either spoke to Mr. Harlan or Mr. Harlan called on me and talked with me about it; but I remember the conversation between him and myself very distinctly, as far as that is concerned.

By Mr. WRIGHT:

Q. I understood you, Mr. Alley, that so far as any personal knowledge is concerned of this account having been presented by him, Dr. Durant, as having been paid by the company, you have no knowledge on the subject at all.

A. I have no knowledge of its having been paid by the company.

Q. Or its having been presented by him to the company?

A. No, sir; I never have heard the subject mentioned since I have been a director, and I have never seen anything on the books.

Q. All your knowledge on the subject which you have is derived from others?

A. What I derived from others. I have no knowledge whatever, except his own admissions.

By Mr. STEVENSON:

Q. From whom did you derive the information that Dr. Durant proposed to charge the $10,000 given to Mr. Harlan to the Pacific Railroad Company?

A. I am not positive. My first impression was that I derived it from Mr. Oakes Ames; and I feel very sure now that I derived it either from him or from his brother, Oliver; but still I would not say positively that I obtained it from either. I can only say that I got it from a source which I believed at the time to be entitled to credit, and which led me to look into it a little, as I then had become quite a stockholder in the road.

Q. How did you look into it—after you received the information that Dr. Durant proposed to charge the money advanced to Senator Harlan to the Pacific Railroad when that fact was brought to your knowledge by either of the Ameses? What course did you take to look into it?

A. O, I did nothing about it except to talk with Mr. Harlan and Mr. Ames about it, as I have stated.

Q. Did you seek Mr. Harlan or did he seek you?

A. I do not remember whether he sought me or I sought him.

Q. How long was it, after you derived the information that Durant intended to charge this sum to the Pacific Railroad Company, before you saw Mr. Harlan?

A. O, I think right away—immediately—or within a very few days.

Q. Where did that interview take place?

A. It took place here, in the Capitol, I believe.

Q. In the Senate or in the House?

A. I think it was in the Senate.

Q. You think it was?

A. Yes. I was then a member of Congress, I believe. It was just a very short time before I left Congress.

Q. You then sought Mr. Harlan?

A. That doesn't follow. I was frequently over in the Senate, and he might have come to me, seeing me there.

Q. Give us that conversation, as near as you can remember.

A. I told Mr. Harlan what I had heard.

Q. Just tell us what you told him.

A. I told him I had understood that he had received money or checks from Dr. Durant, and Dr. Durant was then proposing, or desiring, or expecting to charge it to the company, and I deemed it very improper and outrageous. He agreed with me that it was improper, and if it was to come from the company he wished to return it at once. I told him that I knew nothing about it, personally; that I had nothing to do with the company; that I was merely a stockholder. It was some time before I was a director. He repeated, I think, that if it came from the company he desired to return it.

Q. Did you ask Senator Harlan whether he had received any money, and how much, from Dr. Durant?

A. I do not know that I did. I suppose I told him the circumstances just as I heard them. At any rate, he conceded that he had received this money. I think it was $10,000; I do not remember very distinctly about the amount, though I am very strongly impressed, and was, even before I heard Dr. Durant's testimony——

Q. Did Mr. Harlan state when he had received it?

A. I do not remember that he did.

Q. You think this conversation took place in the Senate?

A. Yes, sir.

Q. Now, give us the date.

A. I cannot give you the exact date, but I think it must have been in the spring of 1867. My impression is that it was after Mr. Harlan took his seat in the Senate, and that was on the 4th of March, 1867; still I cannot say positively.

Q. Did Mr. Harlan say how this money had been paid to him by Dr. Durant?

A. I do not remember that he did. I do not think he did. If he did, I have forgotten it.

Q. Were you a member of the auditing committee with Mr. Ames to audit the accounts of Dr. Durant against the Pacific Railroad Company?

A. There was an informal committee appointed by the stockholders and directors, I think. That is my impression about it; and I looked over the account with Mr. Ames. Mr. Oakes Ames was one of the committee with me, I think—that is my impression. We came to no definite conclusion about it. I could hardly say that they were audited by us although that was the——

Q. Did you not refuse, as one of that committee, to audit the account of Mr. Durant, amounting to some $400,000?

A. I refused to sign the report.

Q. I will ask you whether you did not state to the Hon. Henry L. Dawes, who has testified—and it is proper, perhaps, that I should here read what he said to you—"I think it was Mr. Alley of our State, who stated to me that, looking over the papers of the Union Pacific Railroad, certain papers were found among them. That circumstance I mentioned. I do not know that I could be able to say that I know I said it to Mr. Bartlett, but I did speak of it, stating who told me. It passed out of my mind until this matter came up. That was several years ago, and I do not know that I have thought of it since until they have lately become public. Then I mentioned what was said to me several years ago about it by some gentlemen connected with the Union Pacific Railroad."

That is in regard to these checks. Do you remember stating to Mr. Dawes that, in looking over the papers of the Union Pacific Railroad Company, you discovered this charge of Mr. Durant for the $10,000?

A. No, sir. I have no recollection of ever having any such conversation, or any conversation with Mr. Dawes on the subject. I think he is mistaken in the person. I think it was somebody else, but still I do not know. I certainly did not say that, because that is a matter that I should remember, if I saw any papers that indicated anything of that kind.

Q. Do you remember stating to Mr. Dawes that, in looking over the papers and accounts of the Union Pacific Railroad Company, which you had been trying to settle with Mr. Durant in the controversy, you had found his claim?

A. Stating to Mr. Dawes what?

Q. Do you remember stating to Mr. Dawes that you had been trying

to settle Durant's claims against the Pacific Railroad Company, and among them discovered a memorandum of this check as charged by Durant against the Pacific Railroad Company?

A. No, sir. I never had any such conversation as that with Mr. Dawes.

Q. You do not remember of ever having said to Mr. Dawes anything about these $10,000 checks?

A. No, sir.

Q. Do you remember having said anything to Mr. Bartlett, who was clerk of the election committee?

A. No, sir.

Q. Do I understand you then to say that Dr. Durant has never made a claim, to your knowledge, for this $10,000?

A. He never has to my personal knowledge.

Q. There has been no paper or memorandum, account or otherwise, that has come to your knowledge indicating, on the part of Dr. Durant, an intention to charge the Pacific Railroad Company with the amount advanced by him to Mr. Harlan?

A. No, sir; nothing of the kind. I am entirely certain that in these accounts we looked over—I say entirely certain—I am fully impressed with that belief—that there was nothing in those accounts—no voucher and no charge of that kind in those accounts which he submitted to us. That is my recollection of it. Still, that is a great while ago, and I may be mistaken. I think I should remember such a thing as that.

Q. When you first heard that Dr. Durant intended to charge this sum of $10,000 against the Union Pacific Railroad Company, did you ever make any inquiry of him as to that fact?

A. I do not remember that I did; because it was a long time afterward that I went into the road as a director, and I do not remember that it ever occurred to me when I was with him.

Q. You then thought it was a great wrong for Durant to charge this $10,000 advanced by him to Harlan against the Pacific Railroad Company, but you took no step and made no inquiry as to whether it was true or false?

A. I did not suppose it was true; I did not suppose it was allowed; I said I had seen nothing in any of the papers which indicated to my mind that it had ever been charged or allowed.

Q. I understood, in your testimony this morning, that you heard from a source which was entitled to credit, that Dr. Durant did charge, or proposed to charge, against the Pacific Railroad Company, the $10,000 which he had advanced to Mr. Harlan. Am I right?

A. You are; yes, sir.

Q. You then received that information and thought it was a great wrong against the company to make such a charge. Is that right?

A. That is right, sir.

Q. You then went over to Mr. Harlan, or accidentally met him in the Senate, and told him that you understood, from information you had received, that Dr. Durant intended to charge this $10,000 against the Union Pacific Railroad Company, and that you thought it was a great wrong; that Mr. Harlan proposed immediately to return the money if it was the money of the Pacific Railroad Company?

A. Yes.

Q. Now, I understand you to say that after receiving that information you took no further step to satisfy you, either from Durant or otherwise, whether he proposed to make this charge or not.

A. I said that I talked with Mr. Ames about it subsequently.

Q. But you made no inquiry of Durant touching it?

A. I did not. If I had, he would not have told me, I suppose. Durant and I were never on very good terms after I came into the road. I charged him with these irregularities, which I denounced very severely, and he never confided to me any of his secrets.

Q. What were the irregularities that you charged against him as an officer in that road?

A. The irregularities which I charged against him were in reference to these accounts.

Q. But the accounts had no items, as I understand you. What particular items in the accounts did you denounce?

A. I denounced the whole thing, for the reason that there were no satisfactory vouchers—no satisfactory charges. Here were several hundred thousand dollars charged which he was unable to account for in a satisfactory manner.

Q. Did you ask him in regard to the items in that account?

A. I did, and he refused to state.

Q. In the irregularities, did you ask him about this $10,000 check?

A. I do not remember that I did. I do not think I ever had any conversation with him about that, but I am not certain. My recollection is that I had not.

Q. Was not that, in your judgment, as much an irregularity as any other that he had committed?

A. It was; if he had charged it to the company I should regard it of a piece with other things.

Q. Well, as I understand you, he had charged $400,000 without producing any vouchers, and you denounced that fact?

A. I denounced the whole thing, and have from that day to this.

Q. Now, you say you did ask Mr. Durant about some of the items of which this $400,000 was composed? I understand you to say so.

A. Not some of the items particularly, because he gave no particular items. That was the ground of complaint: that he did not present any items or vouchers that were at all satisfactory.

Q. This is the account as I understand it. I want to be understood. What I mean by an item is this: here is an account on page 381 of House-committee testimony, which contains 17 items. You say this account contains no items. I see "To James C. Kennedy, $2,000." I consider that an item.

A. I have not seen that, sir.

Q. You say the account contained no items. Now I will ask you to look at that account, and see if it does not contain items of various charges, on specific dates, with the names of some persons to whom money was advanced.

A. (Examining.) There is nobody here but C. S. Bushnell. I remember he presented Mr. Bushnell's voucher. "G. T. M. Davis"—I think I remember he presented his voucher. "H. S. McComb"—I think I remember he presented his voucher. There were no other vouchers that I remember to have ever seen or heard of before. I think he said something about Mr. Stewart, and I do not know but what he spoke of Mr. Kennedy; but my impression is that there were no vouchers presented.

Q. I did not ask about vouchers. I was only asking when Durant presented this account for cash advanced to him at the various dates. That is what I meant. I call them items. I meant each specific charge. I wanted to ask you when this account was presented. Did you ask him about what those various items were—what they consisted of?

A. Yes. We asked him how he had spent that money, and where his vouchers were for spending it, &c., and he declined to give us any satisfactory explanation. He said it was secret and confidential, and the others of the committee, I think, were————I do not remember that any one of the committee was entirely satisfied, except Mr. McComb; he expressed himself satisfied; but Mr. Oakes Ames and myself were not at all satisfied, and we said that we would not approve of any such account; so it was not approved, and went over.

Q. Durant then said that he declined to give you the vouchers: that they were secret and confidential expenditures?

A. Yes.

Q. Did he say for what purpose?

A. No; he would not say anything about them.

Q. Did he say it was in the interest of the road?

A. O, he claimed it was in the interest of the road. I think he said some of it was to compromise some railroad matters with parties down here at Washington—with his Kansas road. I do not know how much of it; but still I did not believe his statement, and, consequently, I would not approve it.

Q. He said they were private and confidential expenditures. Did he mention anything connected with Washington as expended here?

A. He said some of it was expended here.

Q. Did he state that any of it was expended in obtaining legislation here?

A. do not know that he did.

Q. What is your best impression on that subject?

A. He refused to give any account or any information with regard to anybody, except one individual, who is not now living. I have stated before the House committee who that person was.

Q. I thought I understood you to state that he mentioned a Mr. Joseph B. Stewart.

A. I am not certain about that. I have a very strong impression that he mentioned that he put considerable money into Mr. Stewart's hands.

Q. For what purpose?

A. That I do not know. As I said before, he declined to go into any explanation. He said it was secret and confidential, and if we could not take his word and rely upon him—he had spent it in the interests of the company.

Q. Did he present an account at Willard's Hotel?

A. I think there was an account at Willard's Hotel for several thousand dollars that he had spent there. I think he stated that he was here nearly all winter, and his expenses were very large. I was in Congress at that time, and so was Mr. Ames, and I knew everybody almost was in favor of the Pacific Railroad, and that bill was voted for with great readiness. I think every New England member voted for it; that is my recollection of it, though I may be mistaken. But there was no necessity for spending a dollar of money, and I never believed he spent it here; neither did Mr. Ames. He, however, alleged that he spent it in these various ways.

Q. After he refused to give you the information touching the expenditure of this $400,000, you denounced the whole account, I understand you?

A. I did then and have ever since, and consequently he has been my bitter enemy from that day to this, and Mr. McComb also.

Q. Where was it and when that this account was presented?

A. It was in New York, at the office. It was, I think, four or five years ago.

Q. Have you any means of giving us, as accurately as you can, without precise dates, about the time?

A. I could not tell you exactly, but I should say it was not over five years, and it was not less than four years ago.

(The committee took a recess until 1.30 p. m.)

1.30 P. M.

Met pursuant to adjournment.

By Mr. STEVENSON:

Question. I want to get the date of the presentation of that account, as near as you can give it to us.

Answer. I cannot give you the exact date. As I stated before, it was not over five years ago and it could not have been less than four years ago. That is, I think not. There is no record of it. We have made no report. In fact it was an informal committee, that was designated by the prominent stockholders and some of the directors, and I am not sure that I was even then a director when I examined that account.

Q. Have you no means of giving us the date as to when the conversation between you and Mr. Harlan took place?

A. I have no means other than circumstances. I think, as I stated before, that it was in the spring of 1867; it might have been in July, 1867. I was here at that extra session in July, and he took his seat, I presume, on the 4th of March, 1867. That is my recollection of it. I see he states that his conversation with me was in the House, he thinks; I am quite sure it was in the Senate Chamber.

Q. You never saw the check to Senator Harlan?

A. No, sir.

Q. You know nothing of the presentation at any time subsequent to the giving of these checks to Senator Harlan?

A. Of the presentation of what?

Q. The checks.

A. No, sir. I never knew in what form he had received it.

Q. Had this amount of Dr. Durant's account, $400,000, ever been allowed by a former board?

A. My impression is that it was. It was either allowed or favorably passed upon by a committee consisting of Mr. Oliver Ames and John J. Cisco. Mr. Ames was the acting president and Mr. Cisco was the treasurer; and my impression now is that I complained of that matter, and—perhaps as much at my instance as anybody's—this informal committee was appointed to investigate it. It resulted in nothing, except we were more dissatisfied than ever.

Q. Did you ever have any conversation with Mr. Oliver Ames or Mr. Cisco as to the ground upon which it was allowed?

A. Yes, sir.

Q. With which of those gentlemen did you have that conversation?

A. I have had conversation with both of them in relation to it?

Q. I do not ask you what they said, but did they undertake to give you the grounds upon which they allowed that amount of $400,000 to Doctor Durant against the Union Pacific Railroad?

A. There had been a good deal of controversy about it. They put more confidence in his statements at that time—Mr. Oliver Ames did, at any rate—than I think they would have done subsequently. In fact, Mr. Ames told me some time afterward that, upon a further understanding of the case, he believed just as I did—that the money was not used

at all; and if any considerable portion of it had been used he was satisfied that it had been used improperly.

Q. Do you know whether Doctor Durant stated to that board, composed of Mr. Ames and Mr. Cisco, how the money had been distributed?

A. I understood that he did not, except in general terms; that the money had been spent in compromising these railroad matters between some other railroads; I think the Kansas Pacific. I think he stated—that is my recollection of what Mr. Ames told me—that this Mr. Stewart got a considerable of it. Mr. Ames is a very amiable man, and desires peace at almost any sacrifice, and I think that was one great inducement for him to consent. But still, that is merely my impression and inference. While I think him one of the most honest and purest men I ever was acquainted with, yet, at the same time, he is sometimes too yielding to people, and I think he ought not to be.

Q. Were you in the board when these $300,000—I speak in round terms; it may be more and it may be less—when this Credit Mobilier stock was tranferred to Oakes Ames as trustee? There was a large amount of stock, transferred, you know.

A. O, it was two hundred and fifty shares, and an addition of ninety-three afterward. I was in the Credit Mobilier—in the board of direction.

Q. I see you were there when that stock was issued.

A. Yes sir.

Q. Was that stock issued to Mr. Ames for the purpose of distribution and sale?

A. The circumstances were these. What was called the Ames party turned out Dr. Durant and his party in May, 1867, from the direction of the Credit Mobilier, and I was one of the directors elected at that time. I was also a member of the executive committee. When we came into the direction we found six hundred and fifty shares standing to the credit of Dr. Durant which had not been paid for.

By Mr. WRIGHT:

Q. Was not this same matter detailed by you in your testimony before the House committee?

A. Yes, sir.

By Mr. STEVENSON:

Q. Then of course I do not want it over again.

A. Yes, sir; it was detailed very fully; I gave a very full account of the matter.

By the CHAIRMAN:

Q. I wish to ask you to state, as near as you can recollect, the price-current or market value of this Credit Mobilier stock at certain dates. You became connected with that stock how early?

A. Late in 1865, I think, I became a stockholder, but I knew little about it until May, 1867, when I went into the direction. I gave it no particular attention before that.

Q. What was its market value then?

A. When I went into it?

Q. Yes, sir, in 1867.

A. O, we all took it at par. There had not been any sold less than that, nor any sold above that.

Q. None sold above par as late as 1867?

A. None sold above par as late as 1867. In August, 1865, I subscribed for myself five hundred shares. I gave my check for $50,000. Then in

March or April, 1867—I may be mistaken in the dates, yet I do not think I am—the road was in a good deal of trouble and difficulty; that is, the Pacific Railroad, and the Credit Mobilier had engaged to build it, taking this contract, which was assigned to it by Hoxie.

They had used up all their capital of $2,500,000, and individuals in the company, Mr. Ames and others, had helped the road a great deal by loans, and it became necessary to raise some additional capital in the Credit Mobilier.

The circumstances of the road were so desperate that in order to get the stockholders to subscribe, they offered as an inducement, that if they would subscribe for a thousand dollars of stock additional, and pay their money in, they should have, for every thousand dollars, a bond of the Union Pacific Railroad Company; one of their first-mortgage bonds, which at that time could not have been sold, I suppose, for anything more than fifty cents on the dollar.

A very large portion of the stockholders of the Credit Mobilier took this additional amount, but a large number of them declined on account of their fear that the thing would slump through.

The fortunes of the road were then thought to be pretty desperate, and their bonds were pledged in some instances at twenty-five cents on the dollar, and in a great many instances at forty cents on the dollar. The road was obliged to pay two and a half per cent. a month for the money, and I think a very large number of the stockholders refused to take it, but, after a good deal of persuasion, and some considerable length of time, and things improving somewhat, they concluded to, and I think nearly every stockholder did ultimately—some months afterward—come in and took this additional subscription, and then it went on until December.

In December, 1867, the stock very suddenly—in a few days—advanced from one hundred to one hundred and sixty; not in the market, because there was none in the market, but among themselves. There was no market value to it. That advance was in consequence of Mr. Oakes Ames, who had taken the large contract in the preceding August, agreeing to let all those parties who owned stock in the Credit Mobilier come in and take an interest in his contract, provided they would sign agreements and become personally liable, as he was. Therefore, those who did not want to come in, and there were some who were not willing to do so on account of the personal liability, &c., could sell their stock and get an advance upon it. Most of them did so, although not all.

I believe three out of seven directors of the Credit Mobilier did not come into that contract at all, but it was almost a universal thing. Then it went on right up to 160, and I think before the thing was finally closed up it was worth 200. I know that some was sold for 200, and I believe as high as 225 a very little was sold.

Q. How was it anterior to 1867? What was the value of the stock?

A. I have stated that I never knew of any being sold above par until December, 1867, and then it was worth 160, but Mr. Ames sold some at 95, and I believe guaranteed the party against loss at that. He was very anxious to sell it to everybody. It was previous to December, 1867, that he engaged the most of the stock, if not all of it; I believe all to members of Congress.

Q. What is that, sir?

A. It was previous to December, 1867, that he engaged, although he did not deliver the most of it until some time afterward, but he had engaged, of the 343 shares that he took, nearly the whole of it previous to December, 1867.

Q. Do you remember the precise date when he got that?

A. I do not. He did not get it until some time after it was agreed to let him have it.

Q. Yes; so I understood.

A. I think that it was in November, 1867, or very early in December, that he came up to New York, and stated that he had engaged more stock than he could supply; and had done it in perfect good faith, and that he thought the company, as it had this stock on hand, ought to let him have it, and not oblige him to take it out of his own stock, as it was then worth something considerably over par.

By Mr. WRIGHT:

Q. When was the first dividend?

A. The first dividend was in December, 1867. That, I think, was a dividend to the Credit Mobilier, and not to the stockholders. That was subsequent, to my recollection.

By the CHAIRMAN:

Q. What do you say the first was?

A. The first was a dividend to the Credit Mobilier.

Q. That was when?

A. That was in 1867, I say.

The CHAIRMAN. I suppose that is what Mr. Ames means by saying, on the 40th page of the testimony taken before the House committee, that these two first dividends were not dividends to the stockholders.

By Mr. STEVENSON:

Q. Mr. Alley, did you sell any stock, in 1867, at 200?

A. Yes, sir.

Q. What time in the year 1867 did you sell that at 200?

A. It was late in December, I think.

Q. I understood you to say, this morning, that you never heard Durant say, nor did you have any information that he had ever offered any money or other valuable things to any member of Congress.

A. I heard him say that in his testimony the other day.

Q. Did he ever tell you that he had offered any money to any member of Congress?

A. No, sir. He told me, as I described in my testimony before the other committee, about an individual who is now dead.

Mr. STEVENSON. Yes; I do not propose to say anything about that.

Senator HARLAN recalled.

By Mr. STEVENSON:

Q. I will ask you now if you were a candidate for the United States Senate prior to the October election of 1865?

A. Well, sir, I was not ever a formally declared candidate.

Q. Was your name before the people? The reason I ask you is that I understood you to say this money was given to aid you in the election of the legislature which was to elect a Senator. That was your testimony, as I understood it.

A. Yes, sir; that was my testimony.

Q. Well, at the time prior to that election was it known among your friends that you would be a candidate for Senator?

A. I never was a formal candidate at all. I never was a declared candidate.

Q. What I mean is, was it understood in the State of Iowa, and out of it, that your name would probably be presented as a candidate?

A. Well, I can only answer on that point from conjecture.

Q. If I understood your testimony, and if I did not I should desire to be corrected, I understood you to say that this money was contributed by Dr. Durant, desiring to have you in the Senate, to the election of the members of the legislature that were to be elected in the election to which this money was contributed. Now, if I have misunderstood you, I desire, as I say, to be corrected, and if I have not, I wish to know whether you had stated to Dr. Durant that you expected to be a candidate.

A. I can only state as near as I can remember what the conversation was, and I think I so testified: that he inquired of me if we would need any help in the elections in Iowa. I told him I did not know whether we would or not; we might. He asked me if I felt any interest in it. I told him that I did feel an interest in it; a general interest, and might feel a personal interest in it. He said that if we needed any help he would like to help some. That is the substance of the conversation as near as I can call it up after so long a period.

Q. In that conversation was there anything said about your possibly being a candidate for the Senate?

A. I do not know that there was anything said distinctly about that, but I can say that that was in my mind at the time; that it was one of the possibilities. It might have been in his.

Q. You do not know whether it was in his or not?

A. Of course I do not know.

Q. I certainly understood you to say that he thought you would be a valuable man in the Senate.

A. No. Some member of the committee asked me what he referred to when he said he felt an interest in it, and I attempted to give my idea of what he referred to. That was all. It was merely conjecture of my own as to what might have been in his mind at the time.

Q. I quote now from your statement to show you upon what I founded my question:

"I stated, moreover, that I believed that he (Durant) was moved to offer to make said contribution solely out of personal regard for me, as a friend, and from a conscientious belief on his part that it would be best for the State, where he held large property interests, and for the nation, that I should be returned to the Senate rather than any one of my opponents."

I did ask you if you were a candidate. I will now ask you who you mean in that answer, by your opponents; who were they?

A. There were several persons spoken of for the United States Senate at that time.

Q. What I want to know is, who they were.

A. Mr. Kirkwood was spoken of more than any one else. There were others talked of. I do not know that I could call up the names just now. Mr. Kirkwood was very prominent, however, before the people at the time.

Q. Was your name brought in antagonism or in juxtaposition with his as a probable candidate?

A. Well, sir, my friends, in talking with me on the subject during the summer, spoke of it as desirable to the State that I should return to the Senate, and I said to them that if I had a choice of positions, and remained in public life, I should prefer to be in the Senate than to be anywhere else. It was understood with them that it was one of the possibilities that my name might be used, but there was no declared candidacy.

Q. I understood you further to say that the money was to be used in favor of such candidates for the legislature as were supposed to be favorable to you?

A. Well, I intended to say, which I have no doubt was true, that my friends took some pains to see that my personal friends were not excluded from the candidacy for the legislature, under our party organizations through the State.

Mr. ALLEY. I would like to ask Senator Harlan a question, if there is no objection.

The CHAIRMAN. I suppose there is no objection, sir.

Mr. ALLEY, (to Mr. Harlan:)

Q. You state in your testimony, Mr. Harlan, which I read now for the first time, for I had not seen it before I came into this room, that in conversation with you I spoke of Dr. Durant's bringing in a large account for expenses, amounting to several hundred thousand dollars, in explanation of which he stated that he had been very liberal in elections, and mentioned "some elections in the State of New York, and some election in New Jersey. I think that was an election of some member from a congressional district in New Jersey. Also some other election in one of the New England States and in Iowa. This was the statement of Alley to me in explaining why he made the inquiry of me, as to whether the road had advanced money for election purposes in my State."

Now, are you quite sure that I made that statement to you in conversation?

A. Well, it has been so long since, Mr. Alley, that I would not want to swear positively to phraseology, and since hearing your testimony I think there must have been two conversations between us. I remember going into the House of Representatives, walking down the center aisle and making some inquiry of you; you sitting in a seat next to the aisle, on the right-hand side, and I facing the Speaker. I made some inquiry of you about something—some indefinite matter—and the conversation sprung up. During that conversation, as I remember it, you inquired of me if the Union Pacific Railroad had ever advanced, under Durant's administration, money for election purposes, in my State, where I was interested? And my first answer was no; that I thought not. Well, then, you looked me right square in the face and remarked that, in settling with Durant, as you had understood from the parties who were settling with him, he had brought in large claims without giving distinct vouchers for items, and that you had understood a part of it—he claimed to have been liberal in elections, and desired the board to pass over it without a minute examination, or requiring him to account every dollar he had expended, as business men usually do. I then remarked, and I remember remarking it very distinctly, that if the railroad company had advanced money, if Durant had taken money out of the railroad company for election purposes, where I was interested, I ought to return it, and would wish to do so. I remember making an inquiry of you as to who was the business man of the company, and your observation was that Mr. Ames knew more about it or had as much to do about it as any one else; but I think I testified afterwards, and the record probably will show, that I was not positive whether it was you who spoke to me about the advances which Durant professed to have made in New York, New Jersey, and elsewhere, or whether it was Mr. Ames who communicated this information to me when I met him on the next day.

Mr. ALLEY. I think, in justice to Mr. Durant, I ought to say that I have no recollection at all of his ever saying that he used any of that money for election purposes.

Mr. HARLAN. My memory is, that you did not say that Durant had said it to you, but that it had come to your knowledge, and that he had created that impression when they had pressed him for vouchers; stated that he had been liberal and generous, and mentioned his election expenses as things that came in incidentally, on account of his connection with the road; that he had fallen in with men, and formed acquaintances with them, and had been liberal, and all that. I remember distinctly I felt very much annoyed at the idea that any account of that kind should be settled by the railroad company, or by anybody else but me, if it had not been advanced as funds usually are by persons who feel an interest in elections. I think I stated in my testimony, further, that I did not remember distinctly whether it was in 1867 or 1868; that it might have been a year earlier than 1868. It was a matter with which I never charged my memory.

Adjourned.

The testimony taken before the committee of the House of Representatives, referred to the Senate and by the Senate to the committee, has been carefully examined, and, so far as it relates to the Senators whose names appear therein, is here presented, as follows:

Poland report, page 9. H. S. McComb.

When Mr. Ames told me that he was going to give the stock he had to members of Congress, some days after the paper was signed I asked him who he was going to give it to, and he gave me the names of some who are on this paper and of some who are not. He said to me at that time, I remember, that he had given stock to Mr. Wilson, of Massachusetts.

I also remembered Mr. Wilson and the Speaker, from the prominent positions they held.

Poland report, page 20. Oakes Ames's written statement.

Mr. Henry Wilson is another. There was a fund given Mrs. Wilson on the twenty-fifth anniversary of her wedding, and I was consulted about investing it. I recommended twenty shares of this stock for $2,000, and the money was paid me; some months afterward he objected to the investment, and I felt bound from what had occurred to take it off his hands and return the money, which I did.

Poland report, page 26. Oakes Ames.

Q. As to Mr. Wilson, of Massachusetts, you say that a certain amount of money was contributed to Mrs. Wilson, and that $2,000 of it was invested in twenty shares of this stock?—A. Yes.

Q. Can you tell when that was done?—A. That was done, I think, in December, 1867. I think that that money was received by her in the fall, and Mr. Wilson applied to me to know what would be a good investment.

Q. And these twenty shares were paid for by that $2,000?—A. Yes, sir; for Mrs. Wilson.

Q. And you say that some months afterward he objected to the investment and the money was returned to him?—A. Yes; he said the road would never pay anything.

Q. Do you know whether any dividends were paid on that stock while it was held by Mr. Wilson or Mrs. Wilson?—A. I do not think there were. If there were, the amount was paid back; I am sure of that. I guaranteed him 10 per cent. for his money when he went in, and when he went out my idea is that he took his money back, and that I paid him 10 per cent. on it for the time.

Q. And you think that neither Mr. Wilson nor Mrs. Wilson received any other benefit than to get 10 per cent. for their money while you had it?—A. Yes, sir.

Poland report, pages 78 and 79. John B. Alley.

One day he said to me he was going to let Henry Wilson have some of this stock, and remarked, "I believe it is a mighty good thing. I have offered him some. His wife, you know, has got some money to invest. Wilson is a good fellow, and I think it will be a nice thing. I have told him that if he or his wife will take a couple of thousand dollars of it, I will guarantee them against loss, if he will give me half the profits." I think he said he would take it back at any time and give him 10 per cent. on his money. A short time after Senator Wilson came to me and asked me what I thought of it. I do not know that I should say particularly that he came to me. We were talking about it, and he asked me what I thought he ought to do. He said Mr. Ames had offered to guarantee it in the way I have stated. I told him he could not afford to lose anything, but that if Mr. Ames had guaranteed it it would be perfectly safe, of course, and I did not see why he should have any hesitation. He replied, "No; I shall take it." I supposed he did. I heard nothing about it for some time, until he came to me and wanted to know what this thing meant about the McComb suit at Philadelphia. He said that somebody had sent him a pamphlet in which there were charges of corruption, bribery, &c., made against Ames by this man McComb. I said to him, "You know who McComb is?" He replied, "Yes." It is not necessary for me to state what was said in regard to him. He had come to the conclusion that if it would be mixed up in a suit of that kind, or if there was to be a shadow or suspicion of any impropriety, he did not wish to remain in the company. I told him I did not see any impropriety in his owning twenty shares of stock, or in his wife owning it. It was a *bona-fide* transaction. It was bought with her own money, as I myself knew, because a sum had been made up by Mr. Ames, myself, and many other friends, as a present to Mrs. Wilson, on the occasion of their silver-wedding. Afterward I saw Mr. Ames, who told me about what Wilson had done. I told him I did not see any use in his giving it back; still, if he chose to give up what honestly belonged to him, it was not for him to object. I remember using this illustration with Mr. Wilson: said I, "You say you have no belief whatever in these charges that Mr. Ames acted improperly in any way." He said no; that he offered him the stock, he knew, only to benefit him, (Wilson.) Then, said I, "Have you not the courage to keep that stock? Would you get frightened and return it to Mr. Ames if a pickpocket should cry 'thief' in order to get it himself?" I think that is the illustration I used. He said, "I do not know but you are right; but I do not want even a breath of suspicion against me. You know that if there is a man who is pure in regard to these things it is myself. I am as poor as a rat, and always want to be, rather than have even a suspicion that I or my wife have made a thousand dollars out of a transaction wrongfully. What is that to me? I want it all taken back. I do not want to have anything to do with it; not that I have the slight-

est suspicion that Mr. Ames had any wrong intentions in any shape or manner, for I know he did not."

Q. Please get on as rapidly as possible. As you understood, the money was paid back to Mr. Wilson or Mrs. Wilson?—A. I have understood so since. I never heard any more about it till the charge was made in the newspapers this last fall. Then he told me that it was all paid back, and I suppose it was paid at the time.

By the CHAIRMAN:

Q. How long was Mrs. Wilson the owner of these twenty shares?—A. Some months, I should think. I do not know about that. I do not recollect, for it was a long time ago, and it has passed out of my mind.

Poland report, pages 186–190. Henry Wilson.

WASHINGTON, *January* 16, 1873.

HENRY WILSON, United States Senator from Massachusetts, sworn and examined.

By the CHAIRMAN:

Question. The committee wish you to state in reference to any negotiations or transactions between you and Mr. Ames, in relation to the Credit Mobilier.—Answer. I have no written statement to make. I received your invitation yesterday. I came here this morning in response to it, and am ready to answer any questions or make any statement of the facts in the case. Mr. Ames did not come to me to offer any of his stock. We boarded at the same house, and often sat at the same table. I had some time before purchased of him two railroad mortgage bonds of Iowa roads; one was a bond of the Cedar Rapids road, and the other, I think, was the Chicago and Nebraska road. They paid 7 per cent. interest, and were bought for 90 cents on the dollar. They were purchased for my wife, and with her money, which had been presented to her on the 27th of October, 1865, the twenty-fifth anniversary of our wedding. During my absence from home, and without my knowledge, my neighbors and acquaintances in the eastern portion of my State made extensive arrangements to celebrate our silver wedding. I was sent for to come home. There was a large gathering from my town, from Boston, and other portions of the State. Many small presents and testimonials were presented to my wife, and a silver service was presented by my townsmen to myself. Before the company separated, a package was presented to my wife, I think by Governor Claflin, which was found to contain $3,800, with a letter and list of subscribers, containing a request that she would accept it as a gift to herself. The subscriptions ranged from fifty to two hundred dollars each, and were made by such men as Governor Claflin, Mr. Sumner, and Amos A. Lawrence. Mr. Ames was down for $200 and Mr. Alley for $100.

This money, given to my wife, I determined should be sacredly hers, and that I would never receive a dollar of it. I was the more resolved on this course because a paper in New York had criticised its acceptance. One thousand dollars of it had been invested by my wife on my advice, where it was all lost. At the time I was in debt several hundred dollars, but as soon as I could I refunded the money she had lost through my advice. In December, 1867, or early in 1868, my wife or myself spoke to Mr. Ames about purchasing one or two more of the Iowa Railroad bonds. Mr. Ames had not then any more of those bonds to sell, but could sell her stock that he believed would be of more value, which he said was the stock of the Credit Mobilier. I knew nothing of its origin,

its history, or its value, and would not have given fifty cents on the dollar for it. I told Mr. Ames that I believed that much of the money put into the Pacific Railroad would be lost; that I had, years before, spoken and voted in favor of building the road, as a measure of great national importance, though I believed much money would be lost in its construction. Mr. Ames said that he would guarantee the stock, and that it should pay ten per cent. on condition that he should have one-half of the excess, if any, and that Senator Grimes had bought some of the stock on the same condition. I asked Mr. Alley's advice. Mr. Alley said that Mr. Ames valued the stock higher than he did, but that it was a safe investment with his guarantee. My wife and myself concluded that $2,000 of her money should be so invested; and a few weeks afterward the money was paid to Mr. Ames, and a receipt or paper was taken, with the promise that he would sell her twenty shares of the stock. The stock was never delivered, and neither myself nor wife ever received or saw a share of it.

Before accepting Mr. Ames's offer, I asked him if any more legislation for the Pacific Railroad would be required, and he assured me that there would not be. I told him I had made it an inflexible rule of action never to buy any property that might be affected by legislation, nor to use any information I had, as a public man, in making investments. I do not say it is wrong for other members of Congress to own stocks in banks, railroads, manufactories, or to purchase land or the public securities. Every one must judge for himself in those matters. My position was a peculiar one. Having learned in early life that a poor man cannot do what a rich man can, and that a lawyer can do what an unprofessional man cannot do, I made up my mind, when I came here, that I would purchase no property that could be affected by legislation. I knew, when elected, that I should come here, if not under temptation, under the liability of being watched and criticised. I came into the Senate from a mechanic's shop. I had a home that cost me about $4,000. I was doing a small business, and soon found that I must leave the Senate or abandon it. I closed my business, paid my debts, gave my wife a deed of my home, and had less than $1,000 left, with no profession, no capital, no business, no partnership. Compelled to live with the strictest economy, I applied rules of action to myself that I did not apply to others who had professions, or capital, or business associations; and during nearly eighteen years, the only investment I have made has been the purchase of a house-lot in the town I live in, for $150, which I sold four or five years afterward for $400.

Some months after Mr. Ames received the money, I saw something in the papers concerning differences among the managers of the Credit Mobilier and of the Pacific Railroad. I asked Mr. Alley and one or two other gentlemen what those reports meant, and whether legislation would not grow out of those controversies. I told him that I should regard the transaction as incomplete; that I should have the receipt given up and the money returned. I said the same to Mr. Ames. He laughed at me, and thought I was doing a very foolish thing, but said he would take the receipt and return the money. A short time afterward he did so. The amount of profit on the transaction, including interest and dividend, was $814. This, with the original investment, belonged to my wife. That amount, on settlement, was allowed by me to Mr. Ames, so that in reality there was received from him the amount which was originally paid him. The $814 my wife received came from my own earnings. Mr. Ames said there would be due, he thought, some stock dividends when the account was made up, but I declined

receiving it, and would have declined had the dividends amounted to $10,000. I regarded the bargain as incomplete, and resolved not to consummate it. I did not know or suspect that there was anything wrong in the transaction; but I was as resolved to have nothing to do with it as I should have done had I known it to be an infamous transaction.

Q. I understand you your wife received from Mr. Ames $2,000 and ten per cent. interest?—A. My wife who was present when the settlement was made, received $814 more than was paid, but the profits came from me rather than from Mr. Ames, and I am, therefore, $814 poorer, and shall be till I die, for advising my wife to purchase that stock, as I never received any part of the $3,800 given at our silver wedding, or the income from it. When she died, in May, 1870, she gave this money to her own kindred, and $1,000 to the church of which she was a member, for the benefit of poor women. She lost $1,000 of the money given at the silver wedding by an investment which she made in accordance with my advice. That amount, as I said, I made up to her out of my own earnings, and the profit also she received from the transaction with Mr. Ames; so that I am now, and ever shall be, $1,814 poorer than I should have been had nothing been given her, and the investment with Mr. Ames had not been made.

Q. At the time you settled up this business with Mr. Ames and the money was paid back, you mean that the dividends from the Credit Mobilier were $814?—A. I mean that the dividends and interest amounted to $814.

Q. Mr. Ames only paid the money and interest to your wife, and you made up the additional sum, so that she could lose nothing by failing to receive the dividends?—A. I made it up to her by making the account square with Mr. Ames at the time of settlement, so that, in the aggregate, nothing was received from him, and what she made came from me. When this transaction had been completed, I do not think I was the possessor of property to the amount of $1,000.

Q. Do you remember the time when this transaction was closed with Mr. Ames?—A. I am not certain to a day, but I think it was in the month of November or December, 1868; it might have been a few weeks later.

Q. Do you recollect what it was about the Credit Mobilier which disturbed you?—A. I cannot; but I saw something in the newspapers which gave me anxiety, and made me think that there might be something that I did not understand about it, or that might bring the road before Congress for legislation. I did not know anything about the Credit Mobilier, how it transacted its business or made its money. I had no doubt of my moral or legal right, or the moral or legal right of my wife, to invest the little she had in Government securities, bank, railroad, or manufacturing stocks, or in any other property in which others invested. I had no doubt, either, of the legal and moral right of any member of Congress to do so. But, as I have stated, my own circumstances and situation were peculiar. Entering Congress a poor man, with no capital, no business, no profession, and no occupation out of Congress by which I could make anything beyond my salary, I felt sensitive in regard to money transactions. I came into Congress in the beginning of 1855, and when the war opened I had saved, by the most rigid economy, about $3,000; and when the war closed my liabilities were many hundred dollars greater than my assets. I raised two regiments and two batteries at considerable expense; I had served several months with General McClellan, always paying my own ex-

penses; I was chairman of the Committee on Military Affairs, and my rooms were continually thronged by officers and soldiers, and I can truthfully say that no soldier ever asked me for money who did not receive something, unless he was intoxicated. So that when my wife's money was given to Mr. Ames I was not worth a thousand dollars; and I would sell all I have to-day, my humble home excepted, for $3,500, and that I have earned during the last four years in writing for the New York Independent. In this transaction with Mr. Ames, I have done nothing which I did not feel that, as a member of Congress and a man, I had a perfect right to do; nothing to be palliated or excused; nothing I am called upon to apologize for to my fellow-men or my country; nothing I must take into my closet and ask God's forgiveness for. In making the investment with Mr. Ames, though the money was not mine and its profits would not be mine, I was actuated by no improper motives; and the moment I saw there was a bare possibility I might have made a mistake, the transaction was canceled, and that, too, at a sacrifice of $814. I am not regardless of the good opinion of my fellow-men; nor am I insensible, though I have been in public life for a third of a century, to the criticism of a portion of the public press. Conscious of my innocence, I feel outraged at the charges which have been made against me, and I believe no greater wrong was ever perpetrated than has been perpetrated on many honorable gentlemen, who could not be influenced by the Pacific Railroad, or all the railroads of the country.

By Mr. NIBLACK:

Q. Let me ask whether this odium which has been created in the public mind has not, to some extent, arisen from mistakes which some gentlemen have made in endeavoring to conceal their connection with it.—A. I cannot say as to others, but I will speak for myself. When the charges first appeared in the papers, I was in Hartford attending a public meeting, and a statement was put in my hands to the effect that I had been given by Mr. Ames two thousand shares of the stock of the Credit Mobilier, which was said to be worth, when I received it, $560,000; that I was a very rich man, and could afford to vote for the Pacific Railroad. A statement was made on my authority that I never owned a dollar's interest in the Pacific Railway or any of the Pacific Railways, either in stocks, bonds, contracts, &c. That statement was absolutely true, for I had had none of the stock of the Credit Mobilier given me, never saw any of the stock, and never had any interest in it, or benefits from it. I intended at once to publish an explanation, like the one I have made to-day. Before doing so, I consulted one or two gentlemen connected with the road, who said that I had done nothing demanding an explanation, that there was a lawsuit pending, and that, under those circumstances, I should say nothing, as it might injure them.

Q. On the supposition that it was an entirely innocent transaction, was it not a mistake for the persons whose names were mixed up with it to attempt to cover it up?—A. Every gentleman must judge of that for himself. I was never more innocent of wrong motives and intent than in this transaction; and it may have been a mistake for me to have acted on the advice of others rather than on my own judgment. I think mistakes have been made in this matter.

Q. (By Mr. Ames.) Did you not ask me, when I suggested this stock to you, if we expected to want any legislation in Congress upon the subject, and did I not answer that we did not want any?—A. I have stated that I was very explicit on that point.

Q. (By Mr. Ames.) I recollect that you were very particular about

making the inquiry.—A. You told me that you wanted nothing; that all the legislation your road required had been passed years before. If there had been any question on that point, I should never have consented that my wife's money should have been so invested. You told me that you had sold some of the stock to Mr. Grimes, and that you had guaranteed it; but I did not then know that any other members of Congress had purchased any.

Q. (By Mr. Alley.) I have heard it stated that the Washington correspondent of the Boston Traveller has published in his correspondence that it was believed here that I was carrying some stock for Senator Wilson; will you be good enough to state whether there is any truth in such an intimation?—A. I saw that statement in the papers. I seldom complain of any criticism I see in the press, but when I saw this imputation I went to this young man and asked why he should write such a thing of me. He replied that he had heard some one state some such thing, and he had sent it as a matter of news to his paper. Neither you nor Mr. Ames, nor any other human being, holds now or ever held anything for me in regard to the Credit Mobilier or the Union Pacific Railroad. Mr. Ames told me, when the settlement was made, that there would be, he thought, some stock coming; but I told him I would not receive it; that I considered the bargain an unconsummated one, and would back square out of it without receiving any benefit from it; and I did so, as I have already stated, at a personal sacrifice.

Poland report, pages 288 and 289. Oakes Ames.

By the CHAIRMAN:

Q. I now wish to ask you in regard to Mr. Wilson, of Massachusetts. —A. That statement heretofore made by me is correct. As I said before, I took the stock back from him and settled with him.

Q. You have heard Mr. Wilson's statement here?—A. Yes, sir; and it is substantially correct. My recollection is that my books show that I settled with him, took the stock back, and squared it up as he says.

Q. Mr. Wilson says that $2,000 of the money given to his wife he paid over to you for twenty shares of that stock?—A. Yes, sir; that is correct.

Q. That during that time, and during the time I held it, and before it was given up, there was a dividend?—A. Yes, sir.

Q. That he refused to receive that dividend, and only received back $2,000 with 10 per cent. interest?—A. I think he received the dividend in the first place, and that in the settlement he paid it back.

Q. I understood him to say that the only amount he received in the settlement was the $2,000 and 10 per cent. interest?—A. Yes, sir; that was correct.

Q. I do not know but you stated before, when the transaction was closed up and the money paid back?—A. I think it was some time during that same year; in the last of that year or the first of the year following; that is my recollection.

Q. The statement of Mr. Wilson upon that subject, you say, is substantially the truth?—A. Yes, sir.

Poland report, page 336. Oakes Ames.

Q. Can you state whether you had had any conversation with Mr. Colfax in reference to his taking any of that stock prior to the session which commenced in 1867?—A. I cannot positively.

Q. Can you in respect to Senator Wilson?—A. I think he did not have any money to invest until that money of his wife's alluded to.

Poland report, pages 448 to 451. Oakes Ames.

Mr. AMES thereupon produced the memorandum-book in question, and was directed to read the first entry he found relating to any of the persons named.

WITNESS. The first entry I find is the following:

1868.

TUESDAY, *January* 14*th.*

Henry Wilson, cr. for cash on act. of C. M. of A..... 70 00

I will say that I had several other matters with Mr. Wilson, which are referred to in this book, and which do not relate to the Credit Mobilier at all.

The next entry I find referring to Mr. Wilson is the following:

1868.

MONDAY, *February* 10*th.*

For $1,600 bonds.

Paid H. Wilson		548 00
In Scofield check	195 33	
U. P. R. R. check	308 72	
Sergt.-of-Arms	44 00	
	548 05	

Mr. CLARK stated that he was informed by the witness that these memoranda were not in every instance made at the time, but that they referred back to the true dates of the transactions.

* * * * * * *

Q. And you suppose this entry to have been made at the time?—A. Yes, sir; under date of March 5, I find an entry of a transaction with Mr. Henry Wilson, which refers to a Cedar Rapids bond, and has nothing to do with the Credit Mobilier.

The CHAIRMAN. You need not read that.

WITNESS. Under date of June 22d I find the following entry:

1868.

MONDAY, *June* 22.

Hon. Henry Wilson.

By div. from U. P. R. R.		1,200
Cash	223 00	
IC. R. & M. R. bd	950	
Intst. from Feb. 1	27	1,200

Bond to be ded.

Check on Bk. of Commerce	223

Q. Have you any further memoranda in reference to Mr. Wilson?—A. I think there is no other.

Q. Have you anything to state in reference to the final settlement of this transaction with Mr. Wilson different from your former testimony?—A. No, sir.

* * * * * * *

Q. At the top of the page containing these cash entries of dividends, the date is printed Saturday, January 2, 1869.—A. This book runs a day or two over into the next year. The date has nothing to do with the entry. This is simply an account of the transactions between myself and the different individuals who were entitled to receive their dividends. This was the list of names. The following is the entry referred to:

1868.

SATURDAY, *January* 2, 1869.

H. L. Dawes	×	600
Scofield	×	600
Patterson	×	1,800
Painter	×	1,800
Wilson	×	1,200
Colfax	×	1,200
Bingham	×	1,200
Allison	×	600
Kelley	×	329
Wilson	×	329
Garfield	×	329

Q. You put down in this list what was to be paid to these men; it is not an entry of the payment you had actually made?—A. It is a list of payments to be made and which were made in different ways, some in one way and some in another.

Poland report, pages 9 and 10. A. S. McComb.

You notice that he [Mr. Ames] excludes Delaware in the list I have given you, though in the letters he brings in one for Delaware. I asked him whether, in putting down one to Delaware in this letter, he meant that he had given any to Mr. Bayard. He said, "No; I gave that one to Senator Conkling, of New York; and that he gave a thousand dollars of the stock to him."

Q. Now, state a little more fully and particularly the transaction when you made the memorandum on this letter.—A. I made it early in February. I do not remember the date. It was very soon after I received the letter. Mr. Ames happened to be in New York, and I had his letter with me.

Q. You produced the letter to him?—A. Yes, sir; I produced the letter to him. That is the time he made the explanation about Mr. Conkling. He had previously talked about giving some of the stock to New York, to which I objected, and that is the reason I said in my letter "none to New York." I did not know Mr. Conkling, and was opposed to his having any of the stock.

Poland report, pages 21 and 30. Oakes Ames.

Mr. McComb swears I told him I had given one share to Senator Conkling. It is absolutely untrue. I never said so, nor did I ever agree to get him one, nor was he ever interested in the company.

The CHAIRMAN, (to the witness:)

Q. As to Senator Conkling, you say that he never was the owner of any stock, and that there never were any negotiations between him and you?—A. No, sir; he never had any stock and never paid for any, and never received any dividends from me to my knowledge.

Poland report, pages 20, 26, and 27. Oakes Ames.

Mr. Patterson bought of this thirty shares, and it was by his order transferred to a banking-house in New York.

Q. As to Mr. Patterson, you say that he bought thirty shares, and that it was transferred to a banking-house in New York for him?—A. Yes, sir; by his direction.

Q. You say, also, that he owned it, and you think some dividends were paid upon it. Does he still own it?—A. I do not know.

Q. The contract never has been taken back?—A. No, sir; not by me.

Q. That is, he either owns it now or has disposed of it?—A. Yes, sir.

Q. For aught you know he is still the owner of that stock?—A. I cannot give you any further information about it.

Q. I see in that list of stockholders the name of the Fourth National Bank of New York.—A. It was not to that bank that Mr. Patterson's stock was transferred; it was to his friends, Morton, Bliss & Co. I believe that they advanced the money to pay for it originally. His stock is not on that list. I do not suppose it was transferred to them. I do not know anything about it, however.

Q. You do not suppose it was transferred on the books to that firm?—A. That I cannot say; I have no knowledge of it.

Q. Do you know whether those thirty shares were ever on the books of the company transferred to anybody, or whether they still stand in your name?—A. I do not know. I have not seen the books of the company.

Q. But you understood that you had really parted with those thirty shares of stock for the benefit of Mr. Patterson, and that he, or somebody for him, was entitled to take dividends on them?—A. Yes, sir.

Q. And that that has continued down to the present time?—A. Yes, sir.

Q. The contract has never been rescinded?—A. Not by me.

By Mr. McCrary:

Q. What Mr. Patterson is that?—A. Senator Patterson, of New Hampshire.

Poland, report, page 31. Oakes Ames.

Q. "Patterson, of N. H., 3,000." How many shares did Mr. Patterson have?—A. Thirty shares; that is correct.

Q. Mr. Patterson did have thirty shares?—A. Yes, sir.

Poland report, pages 184 and 185. J. W. Patterson.

Washington, D. C., *January* 16, 1872.

J. W. Patterson, a Senator of the United States, from the State of New Hampshire, having been duly sworn, made the following statement:

Gentlemen of the Committee: I have had no transaction with the Union Pacific Railroad, or with Mr. Ames, which, in my judgment, call for investigation or which any respectable business man would think of criticising; still, I am glad to respond to your invitation to be present this morning, and with your permission will give you a brief, but complete, statement of all there is to this matter, so far as I am concerned.

I entered Congress after all the land-grants and subsidies to the Union Pacific Railroad had been made. The only legislation which has arisen since in respect to it, the wisdom and policy of which any one questions so far as I know, is the act of 1864, which passed during my first

session in Congress. I was not as well informed in respect to the merits of this great work as I am now, but I have never regretted the vote I gave at that time. I then had but a slight acquaintance with Mr. Ames, having never seen him before I entered Congress. At a later period we were thrown together and brought into the relations of a somewhat intimate friendship.

Near the close of 1867, when no man could have anticipated any further legislation upon this subject, and since when, if we except the transfer of the office of the company to Boston, there has been none, unless giving a construction to a previous act, on a question raised unexpectedly by the Secretary of the Treasury, may be so considered, Mr. Ames came over to the Senate, and proposed to sell me thirty shares of stock in the Credit Mobilier. He represented at the time that he did this as a friend, looking to my interest.

I asked him to explain to me what the Credit Mobilier was, and he did so. I then asked him if it was proper stock for a member of Congress to hold. He said he thought it was, as they did not expect to ask for any further legislation, and to give strength to his view he mentioned several distinguished gentlemen of acknowledged integrity, who had either taken or proposed to take stock in the company. I then inquired if he thought it would be a profitable investment. He replied that he did, or he should not have offered it to a friend. I said I should be glad to take some of the stock, but could not then, as I had no money. "When you get some money which you wish to invest," said Mr. Ames, "come to me, and you shall have the stock."

At that time I purposed to take the stock, and doubtless Mr. Ames expected I should, but I never found it convenient to take it before I concluded it was not best to take it, and so the purchase was not consummated, and I never received, directly or indirectly, nor did any one ever hold for me in trust, one penny's worth of stock of the Credit Mobilier.

I have been thus explicit because I have been misrepresented in respect to this thing, and not because I see any breach of propriety or personal integrity in a Congressman's purchasing or holding this more than paper, wool, legal-tenders, bonds, bank-notes, bank-stock, or any other species of property liable to be affected by legislation, but upon which legislation was not anticipated at the time of the purchase.

On two occasions, subsequently, I purchased of Mr. Ames stock and bonds in the Union Pacific Railroad, which were placed in the hands of a friend in New York for sale. My friend sold them at a fair profit. For this stock and bonds I paid the full market price in money honestly earned by myself. These transactions were *bona-fide* purchases, and not exchanges of stock or distributions of dividends. It was a small investment, but reasonably profitable, and I regret it was not larger, as it was both honest and honorable. I doubt if there is any member of Congress who would deny the right or the propriety of such a purchase to-day.

This is the whole of my connection with Mr. Ames or with the Union Pacific Railroad.

I have never purchased or received any property of any kind which had any connection, direct or indirect, with my vote or political influence.

By the CHAIRMAN:

Question. Can you state the time you made the purchase of the Union Pacific securities spoken of?—Answer. At two different times, as nearly

as I can recollect. One was some time in the summer of 1869, and the other, if I remember correctly, in 1871.

Q. In about what amount substantially?—A. I purchased, all told, about three hundred shares of stock. I cannot recollect the exact amount of bonds. I placed them in the hands of my friends to sell them.

Q. You never held, I understand you, any of this Credit Mobilier stock?—A. Never.

Poland report, page 186. J. W. Patterson.

Q. Were you ever treated as being the owner of it by Mr. Ames?—A. I did not so regard it.

Q. The stock which came into your possession was not received as dividends?—A. I do not so regard it. I bought the stock with my own money.

Q. How long were you the holder of it?—A. A very short time. I put it into the hand of my friend in New York, who sold it.

Q. Upon the stock you held, did you receive any dividends during the time you held it?—A. No, sir.

Q. Whatever you made on that was a profit on the sale of it. Do you remember at what price Union Pacific Railroad stock was held when you purchased it?—A. I cannot remember; it was quite low. The last time I purchased of Mr. Ames was about the time they undertook to injure his credit, and the stock went down. Mr. Ames can remember the date, probably, better than I can. That was about the time I made the last purchase.

Q. Before it was sold the stock was in better credit?—A. Yes, sir.

Q. Can you state somewhere near the variations in price between the purchase and sale?—A. It was sold for 37, I think, or somewhere in that region. What it was worth at the time I bought it I do not recollect. I know I bought it at the market price, whatever it was selling for at the time; but I do not recollect what that was, nor do I suppose it material that I should, as I state that I had the stock.

Q. The negotiation in relation to your becoming an owner of Credit Mobilier stock was broken off by you?—A. It was never consummated by me.

Q. If you had insisted upon that stock, Mr. Ames would have let you have it?—A. I have no doubt about that.

Q. Can you state what the considerations were which led you to think it best not to become the owner of it?—A. I had not the money to buy it, was the trouble about it. If I had had the money within any reasonable time after this conversation, I have no doubt I should have got it, but I did not happen to have the money.

Q. Do you know of any dealings between Mr. Ames and any other member of Congress in relation to the stock of the Credit Mobilier?—A. No, sir; otherwise than at the time Mr. Ames came to see me, as I stated. He mentioned the names of two or three gentlemen, who, he said, either had or he expected would take stock.

Q. Do you remember who they were?—A. I think he mentioned Mr. Colfax, Mr. Wilson, and I think Mr. Boutwell.

Poland report, page 261, 272. J. W. Patterson.

WASHINGTON, *January* 21, 1873.

Senator J. W. PATTERSON, having been recalled at his own request, made the following statement:

GENTLEMEN: A committee of the Senate would have the right and

would be obligated, when there were sufficient grounds of suspicion, to investigate my conduct and satisfy itself whether or not I had been improperly or corruptly influenced in my official conduct, but here I appear by courtesy, and must plead as my excuse for troubling you, the necessity of defending myself against an unjust suspicion of having been improperly influenced in my legislative action. This, as I understand it, is the legitimate and the only legitimate inquiry before your committee. What property, and how much property, I may purchase is a private matter, not open to legislative investigation unless the circumstances of that transaction indicate that I have been improperly influenced by it as a legislator.

When last before you, I stated that on two occasions I bought stock and bonds in the Union Pacific Railroad. I should with as little hesitation have stated that I had bought stock in the Credit Mobilier if I had understood that to be the fact, for I see no reason why a member of Congress might not with equal propriety own stock in either, or be corrupted as readily with one as the other.

Members of the House have owned stock in the Credit Mobilier from the first, and drawn their dividends upon it, whose integrity and official propriety have never been questioned, though they have exercised their right to vote whenever the Pacific Railroad has been before them. They who purchased this stock after all legislation had passed, and whose votes and influence could not have been affected in a solitary instance, cannot be less innocent, and should have been saved the cruel humiliation of this public scandal.

My object in coming before the committee this morning is to state or explain a little more fully than I did when first before you a point on which I find I differ from Mr. Ames's present position.

In my testimony of Wednesday, I stated that I made two purchases of stock and bonds of Mr. Ames, and I read that statement to him before presenting it to the committee. He said it was correct except in a single point. I believed it correct in every point, and therefore gave it to the committee.

I will state the case. It is in relation to the first purchase. We are agreed on the second.

More than a year after I had been offered stock in the Credit Mobilier, having some money to invest, I placed it in the hands of Mr. Ames, without a thought that the stock of the Credit Mobilier, represented as so profitable, was in the market, and with the understanding, on my part certainly, that he was to secure for me stock or bonds in the Union Pacific Railroad, and dispose of the same in such time and way as he could realize the most for them. On one occasion, and I have no recollection of any other, he paid me some money, which I then supposed, and now believe, came from the sale of stock or bonds which he had purchased and held for me. A day or two since he came to my room and said he had again been called before the committee, and showed me for the first time a memorandum, in which he had credited me with thirty shares of stock in the Credit Mobilier and two dividends on the same.

Supposing I was to receive stock or bonds, or their proceeds, and never having received anything alse, I thought I had got what I paid for, but Mr. Ames, it seems, not wishing me to suffer from my ignorance of the mysteries of Pacific Railroad management, had me put down for stock in the Credit Mobilier, and assigned me what I received as dividends on the same.

So far as this investigation is concerned, it is a matter of indifference

to me whether his understanding or mine is correct, for, in either case, it was simply an investment for profit, and had no connection, in thought or act, with legislation; but, if he is right, somebody owes me a few thousand dollars, which, if they will have the goodness to cash, I shall find my venture more profitable than I had any reason to expect.

I have volunteered this statement, because if Mr. Ames is correct and I am wrong, it is due to myself that I, and not another, should make the correction.

I still maintain, however, that my understanding of the transaction is the correct one, and have reason to think that Mr. Ames at one time entertained the same view.

I have two letters, gentlemen, which I had not thought to make public; but, as they seem to confirm my position, I am sure Mr. Ames will justify me in making them a part of my statement.

Before reading the letters let me give a word of explanation.

Near the close of the last session of Congress a gentleman came to me and said that Hon. E. H. Rollins, who was a competitor for my place in the Senate, was reporting that I was an owner in the Credit Mobilier, and that he should use it against me in the canvass. Meeting Mr. Ames, I repeated what I had heard. He wrote a letter to Mr. Rollins, in which he denied that I owned stock in that company, and came over to the Senate and showed it to me. I said it was entirely satisfactory. On reaching Concord I found that, among other false and malicious stories concocted to injure my public reputation, this was afloat. I denied, as I do to-day, that I had ever owned any of the stock; but stated, as I have testified to you, that I had bought stock and bonds in the road. To confirm my statement, I telegraphed to Mr. Ames, at his home, to send me a copy of his letter to Mr. Rollins. My telegram reached him in Washington. Not hearing from him as quickly as I desired, I wrote him, and at length received replies, both to my telegram and my letters, which, with your permission, I will now read, so far as they relate to this subject:

"WASHINGTON, D. C., *June* 9, 1872.

"DEAR SIR: I have your telegram asking me to give you the substance of the letter I wrote Rollins. You saw the letter; I added nothing to it after you saw it, and it is the only letter I have written him.

"The substance of it was that I heard he was making charges against you, or representing you as holder or owner of stock in the Credit Mobilier, and that there were wrong and improper influences in relation to it.

"I wrote him that I *did not think you ever had any of the stock*, and if you had there was no more impropriety in it than owning bank stock.

"Yours, truly,

"OAKES AMES.

"Hon. J. W. PATTERSON."

"NORTH EASTON, *June* 12, 1872.

"DEAR SIR: I wrote you from Washington in reply to your telegram.

"I have your letters of the 8th and 12th this evening here on my arrival home from Washington.

"I stated in that letter the substance of my letter to Rollins.

"You saw the letter I wrote him, and there was nothing in that but the truth; and that Mr. Rollins should say that the Credit Mobilier of America was a fraudulent concern, and that those engaged in it perpe-

trated a fraud on the country, community, or its stockholders, is simply an untruth. The stockholders of that company contained some of the best men of the country, and Mr. Rollins knows it. Such men as John J. Cisco, General Dix, William H. Macy, M. Dillon, McCormick, James Brooks, and many others of New York, Glidden & Williams, Ezra Baker, Elisha Atkins, John Duff, Samuel Hooper, F. Gordon Dexter, Hon. John B. Alley, Oliver Ames, and myself, and many others, and I am proud to say that I was a stockholder in it, and that there is and was nothing wrong in holding the stock, any more than in owning bank or railroad stock, and Mr. Rollins should be ashamed to make such charges *if you had been a stockholder and manager in the company, as you was not.* If Mr. Rollins can find nothing against you worse than being a stockholder in the Credit Mobilier, you must be the purest man in New Hampshire or in the United States Senate.

"Trusting that you will not suffer because you are accused of being a stockholder with me, *and not realizing the profits*,

"I am yours, truly,

"OAKES AMES.

"Hon. J. W. PATTERSON."

I have only to add that I have never received any certificate of stock or other evidence of ownership in the Credit Mobilier, and am not enough of a lawyer to know how I could draw dividends on what I did not own.

With this explanation I am done with this examination. Of the outrage done to the fair fame of men who have lived without reproach for half a century, by driving them into the gaze of the public with a scourge of epithets which should be laid upon the lowest criminals with caution; of the torture inflicted upon men, sensitive of their good name, by subjecting them to legislative inquisition without sufficient reason, I may take occasion to speak elsewhere; but here I close, simply remarking, if such things are to continue, all decent men will leave public life, as I do, with pleasure, and not with regret.

By the CHAIRMAN:

Q. If I understood the substance of your statement the other day, it was that you never purchased any stock of the Credit Mobilier, but that you did purchase stock and bonds in the Union Pacific Railroad Company?—A. Certainly, I say that now.

Q. What was the precise form of the dealings between you and Mr. Ames? How was the business done?—A. The conversation of which I spoke about the Credit Mobilier was in 1867. More than a year after that I went to Mr. Ames, having some money, not being a business man myself, and asked him to invest it for me. He being a business man, I gave him the money to invest. My understanding was that he was to invest it in the stock and bonds of the Union Pacific Railroad Company, and to make the most of it he could for me.

Q. What was the amount?—A. Three thousand dollars.

Q. Was anything said at the time about the Credit Mobilier?—A. No, sir; I have no recollection of a word being said.

Q. Was anything said about the stock and bonds of the road?—A. Yes. He thought the bonds would appreciate in value, and also that the stock would be a good investment.

Q. The amount of money you let him have was to be invested in the stock and bonds of the Union Pacific Railroad. Did you ever have any bonds delivered to you? Did you ever receive any bonds?—A. Yes, sir;

and at one time I put my bonds into the hands of a friend in New York, and also the stock I had, except the stock which Mr. Ames sold for me.

Q. You had, then, a certificate for some stock?—A. I had a certificate for three hundred shares of stock. I do not remember the amount of bonds. My friend in New York did all the business for me; I had very little to do with it.

Q. Have you kept any money account of the dealings between you and Mr. Ames?—A. No, sir; I generally put down such things in a little pocket memorandum-book, which is frequently destroyed. I do not know whether I have anything of that kind or not. If I have, it is at my home in New Hampshire; it is not here.

Q. The sales that were made by this gentleman in New York were by a member of the firm of Morton, Bliss & Co.?—A. That was the firm that made the sales for me.

Q. And whatever you put in their hands to sell was Union Pacific Railroad securities?—A. Yes, sir.

Q. Did you ever have a certificate of stock in the Credit Mobilier?—A. No, sir.

Q. You never received any transfer of it or made any transfer?—A. I never received it, haven't got it, and never transferred it.

Q. And you never supposed you had any sort of interest in the stock?—A. No, sir; I supposed I had stock and bonds in the railroad; not any in this company.

Q. Can you give an idea of the gross amount, nominal value, of the stock and bonds you received for your $3,000?—A. As I stated before, I can give you the amount of stock. As to the bonds I cannot state it, because, except what Mr. Ames sold, I put it in the hands of friends.

Q. And you do not know what amount they sold for you?—A. I do not now. I could easily ascertain. There is no question about the fact: I had it, and it was sold.

Q. And they never sold any Credit Mobilier stock for you?—A. No, sir; they did not.

By Mr. NIBLACK:

Q. While I recognize the seeming indelicacy of asking in regard to private transactions, they have been so often referred to in the statements gentlemen have voluntarily submitted, that it seems necessary in order to explain the entire transaction. I want to ask you whether you did not borrow the money you gave Mr. Ames to invest, from a friend in this city, ex-Mayor Emery?—A. Never; not a penny of it.

Q. Do you remember having a conversation with Mr. Emery in regard to this investment?—A. Not in the least; no, sir.

By Mr. MERRICK:

Q. Did Mr. Ames pay any dividends on this investment?—A. He states that he paid dividends; I understand that he accounted to me for Union Pacific Railroad stock he had bought and sold; he understands it differently.

Q. Can you state what amount you received?—A. It was five or six years ago. I should think it was $2,000 or $3,000.

Q. Did he pay you more than once?—A. I have no recollection now of more than one payment. He says he paid me twice.

Q. What was the character of the subsequent investment you speak of?—A. Simply that I bought some bonds and some stock.

Q. What sort of bonds and stock?—A. The bonds and stock of the Union Pacific Railroad.

Q. What was the amount of them?—A. I have just stated to the chairman that I could not give the amount of bonds.

Q. I mean the amount of money you invested in the purchase?—A. I think $4,000.

Q. Was that money had of your own, or of money you borrowed for investment?—A. I have no recollection of borrowing any money for the purchase of bonds.

Q. You would know it, if you had borrowed money for that purpose?—A. I would be very likely to remember it. This is a matter, however, that occurred four or five years ago.

By the CHAIRMAN:

Q. In this last transaction, you say that you invested so much money, and that you received so much in bonds and stock coming from that purchase?—A. I did.

Q. Mr. Ames had nothing to do with the negotiation or sales of these securities?—A. No, sir.

Q. The difference between you grows out of the first transaction?—A. Entirely.

Q. You say that you let him have some money which he invested in some way, and that he disposed of the securities?—A. Of the bonds and stock; yes.

Q. You did not understand then, and do not now, so far as you have any knowledge or memory about it, that that had anything to do with the Credit Mobilier?—A. No, sir; not as I understood it. Mr. Ames understands it differently. He thinks that it was the stock of the Credit Mobilier I bought, and that what he paid me was the dividends on that stock; that is the reason for my explanation here to-day—I thought I would rather do it than to have him to do it. I want a correct understanding of the matter.

By Mr. AMES:

Q. You paid me $3,000 in January, 1868?—A. I do not recollect the date.

Q. February 14, I paid you $2,223, proceeds of a dividend on the $3,000 I invested for you in January; is not that correct?—A. It is your statement. I understood it to be a sale of bonds, as I said before.

Q. And I delivered to you thirty shares of Union Pacific stock at the same time?—A. I have no recollection about that.

Q. January 19, I paid you a dividend of $1,800, which was a dividend of 60 per cent. cash upon $3,000 invested in Credit Mobilier stock; I suppose that is correct?—A. That is the memorandum you showed me, and which I have just been explaining.

By the CHAIRMAN:

Q. Do you make any question but that you received the amounts of money from Mr. Ames?—A. I have stated that I received money from him once. I do not recollect about the other occasion referred to. I do not contradict Mr. Ames's statement. I say that I do not recollect it. When I received it, I supposed the money had come from a sale of the Union Pacific Railroad securities, purchased for me.

By Mr. AMES:

Q. What I want to get at is whether you deny having received of me these amounts for some purpose or other?—A. No; I do not deny it nor affirm it.

Q. Do you mean us to understand that you have any doubt as to the

fact of receiving these sums, as noted down by me?—A. I mean to have it understood precisely as I stated; I do not recollect it. That I received some money from you once, I admit. I do not recollect the other.

Q. But how it was derived is the issue between us. What I want to understand is whether you deny having received these amounts.—A. I do not deny it, because I do not recollect it.

Mr. AMES. The difference, as I understand, between Senator Patterson and myself is, that, as I stated in my testimony, my understanding was that Mr. Patterson purchased thirty shares of Credit Mobilier stock and received the dividends that I have mentioned in my testimony. Mr. Patterson in his testimony stated that he never purchased any Credit Mobilier stock of me, and received no dividends. That is the only difference between us. If Mr. Patterson admits that he purchased the stock, or bargained for it, and received the dividends, that makes my statement correct. If he does not admit that, there is the point on which we differ.

By the CHAIRMAN:

Q. Mr. Patterson says that he had at one time, but long before the payment of this money, some talk about purchasing some Credit Mobilier stock. I understand him now to say that at the time he paid over the $3,000 in money, he did not understand it was for Credit Mobilier stock, or that he was to receive dividends on it. He thought it was for the purchase of, or investment in, the stock and bonds of the Union Pacific Railroad. Now what was that transaction? What was said between you, Mr. Ames, and Mr. Patterson, when he received the money?

Mr. AMES. My understanding was that I took the $3,000 to buy stock of the Credit Mobilier for him. That was my understanding.

By the CHAIRMAN:

Q. What was Mr. Patterson's understanding?—A. I suppose he understood it in the same way.

Q. What was the talk between you?—A. We did not talk anything about the Credit Mobilier.

Mr. PATTERSON. What did we talk about at that time?

Mr. AMES. We didn't talk about anything of that sort.

By the CHAIRMAN:

Q. What was the date of this transaction?—A. January, 1868.

Q. You had had a conversation before upon that subject?—A. Yes, sir.

Q. How recently before?—A. I cannot tell you. I cannot remember dates.

Q. That transaction was here in Washington?—A. Yes.

Q. Do you remember any conversation, and can you tell the committee what was said between you and him at that time in reference to Credit Mobilier stock?—A. I cannot remember anything further than that I was to get $3,000 of Credit Mobilier stock for him, at par, with interest charged from July 1, 1867, to the time he took the stock, which interest amounted to $105. He paid me $3,000. When I received the first dividend of 80 per cent., the 14th February, I sold the bonds at 97, making $2,380. I deducted the $105 interest, and paid Mr. Patterson over the balance of the dividend, $2,223.

Q. Was the stock ever transferred to him?—A. I think none of the stock was transferred. It is my recollection that I handed him a certificate of stock. He says I did not, and his memory is better than mine. If I did not, then I have lost one certificate of thirty shares.

Q. I understand that to make up the account of stock that you should have, these thirty shares are gone?—A. Yes. I do not know that Mr. Patterson had it. I do not wish to insinuate that he had it at all.

Q. Have you now any memory of delivering it to Mr. Patterson?—A. It is my recollection that I delivered thirty shares of stock and thirty shares of Union Pacific Railroad stock at the same time I paid the first dividend.

Q. Have you examined the books of the company to see if that transfer was made?—A. I do not think the certificate of stock given to me as trusteee has been transferred on the books. I held over two hundred shares that I now have in my pocket-book in small certificates.

Q. Upon the books which were before the committee no stock appears to stand in Mr. Patterson's name?—A. I do not think any of that stock held by me as trustee has been transferred, except the ten shares I referred to to Mr. Gilbert, and three shares to Mr. Ham.

Q. Your supposition is that you delivered a certificate of stock to Mr. Patterson and that he has it yet?—A. That is my impression; I do not say that I did. I do not pretend to recollect. I may be mistaken.

Q. Do you feel certain, or anything like certain, in reference to it?—A. That is my impression. I do not want to say I am certain when Mr. Patterson says the contrary.

Q. Is that your belief?—A. That is my belief.

Q. Where was it done?—A. Done here in Washington.

Q. You think that was delivered to him at the time the thirty shares of Union Pacific Railroad stock were transferred to him?—A. Yes, I believe so, at the same time with the thirty shares of Union Pacific Railroad stock.

Q. What was the date of that?—A. I think it must have been some time in February, 1868.

Q. You claim that you received the money from him in January?—A. The $3,000 were received by me in January.

Q. Have you the date?—A. I have not it here; no, sir.

Q. Now, what was it undersood that money was to be invested in; and how much, and what precisely did you pay or deliver to Mr. Patterson?—A. I delivered, on February 14, $2,223 in money, as I have stated.

Q. How was the money received by you?—A. I got it from the sale of his bonds.

Q. And these bonds were dividends on his stock?—A. These bonds were dividends.

Q. They were paid over to you because the stock stood in your name?—A. I collected the dividends on the whole amount that stood in my name.

Q. Go on and state just how much you received, and how much you paid to Mr. Patterson.—A. I have stated that the first payment that I received was 80 per cent. in bonds, which on $3,000 would be $2,400. I sold the bonds at 97, netting $2,380. I paid to Mr. Patterson, the 14th February, $2,223, which, with the amount of $105 for interest on the $3,000 from July, makes up the amount of the dividend. Then in June I paid him a dividend of 60 per cent. in cash, $1,800.

Q. That was declared as a cash dividend?—A. That was declared as a cash dividend. I received the money and paid it over to him.

By Mr. MERRICK:

Q. In addition to that you delivered to him the thirty shares on the 14th February, of Union Pacific Railroad stock?—A. Yes; it was the first dividend on the Credit Mobilier. I am not sure about the date when

I delivered the stock, but it was about that time. It might have been when he paid me for the stock in January.

By the CHAIRMAN:

Q. The stock was received as a dividend?—A. The Union Pacific Railroad stock was received as a dividend on the stock which he purchased.

Q. Is that all you received on that $3,000?—A. When this suit of McComb was brought up I think I held most of the dividends in Union Pacific Railroad stock belonging to the different certificates held by me for various parties, and that I consolidated a large number of them, six hundred odd shares, belonging to these different parties in one certificate, which I put in the name of Mr. Kennedy, as trustee. A year or more afterward he transferred it back to me, and I hold it now. Then something like a year and a half ago I settled with Mr. Patterson, and paid him what dividends in Union Pacific Railroad stock belonged to his thirty shares of Credit Mobilier stock.

Q. How much did you pay him then, do you remember?—A. I think, as near as I can recollect, his thirty shares gave him about one hundred shares of Union Pacific Railroad stock in all. I paid him this, and the balance of what was due beyond the thirty shares already referred to.

Q. Have you any idea what the amount was?—A. I gave him the stock.

Q. Did you ever pay him any more money than you have stated?—A. I cannot recollect that I ever did.

Q. Did Mr. Patterson receive the full amount of the dividend declared on the thirty shares of Credit Mobilier stock?—A. It is my impression that he did.

Q. When you settled with him was it understood that he was the owner of these thirty shares, or that you were to have them? What was your understanding?—A. I thought they belonged to him. I had purchased them for him.

Q. You think that he was the owner of $3,000 of the Credit Mobilier stock upon which you drew the dividends and accounted to him for?—A. Yes, sir.

Q. You understood that he was the owner of thirty shares?—A. That was my idea. If I have not delivered to him all the dividends I am bound to account to him for it.

Q. Now, in this subsequent transaction, whatever may have been said, you supposed he understood it in that way?—A. I judged he did.

Q. Can you tell anything that was said between you and him upon the subject during this period?—A. I do not know that I can, now, anything in particular. I settled with him and gave him the dividends.

Q. You did not suppose there was any question between you but that it was Credit Mobilier stock; that he purchased thirty shares and received the dividends? You supposed that was clearly understood between you?—A. I did. I do not know that I had any conversation with him as to how it stood. I now suppose that Mr. Patterson, from his stand-point, understood it differently.

Q. When did you first learn there was any misunderstanding between you in reference to this transaction?—A. Not until recently.

Q. Mr. Patterson has shown some letters here from you last summer?—A. There were charges made against Mr. Patterson that he was the holder and owner of Credit Mobilier stock. My letter simply was that he never appeared upon the books of the company as the holder of stock.

Q. That is the way you reconciled the statement of your letter with the facts?—A. That is the way my letters read.

Q. You did not mean to say, or to be understood as saying, that he never had any interest in Credit Mobilier stock?—A. No, sir.

Q. But simply that his name did not appear upon the books as a stockholder?—A. Yes, sir; that it did not appear as a stockholder.

Q. Do you think that is a fair gospel interpretation of your letter?—A. That is as I understood it. Mr. Patterson was very anxious that I should write him something to repel the slanderous abuse heaped upon him, and what I wrote I understood to be strictly true.

Q. It was literally as a formal statement true, I suppose?—A. Yes, it was literally true.

Q. Do you think a man would understand from these letters exactly what the transaction was?—A. He would by inquiring further.

Q. He would not understand exactly without inquiring further?—A. That would depend upon how much he knew before.

Q. You say you wrote that for what reason?—A. I wrote that to repel the charges made against Mr. Patterson of his owning improperly that Credit Mobilier stock. I did not think there was anything improper in owning it. I never felt ashamed of owning it. I never felt that I had done anything wrong, or that anything wrong could be made out of it.

Q. You did it out of consideration of the tenderness of his conscience?—A. Yes, sir.

Q. Did you have any conversation with Mr. Patterson about the time of writing these letters as to what the facts were?—A. No, sir.

Q. Was anything said between you to the effect that you were to write a letter that would be literally true and still not be in spirit in accordance with the facts?—A. What I said was that his name would not appear upon the books of the company as a stockholder, and that is all there is of it.

Q. If he could make anything out of that statement you had no objection?—A. I had no objection.

By Mr. MERRICK:

Q. Did you suppose at the time, that you and he thoroughly understood each other on the subject?—A. I did suppose he knew all about it. I did not know that there was anything lacking in his information. I did not suppose there was; it seems there was. Of course, Mr. Patterson had nothing to do with it, except from what I told him, and he may have got a wrong impression from my statement. It seems that I make statements that are not wholly understood, and write letters that are not understood. I did not suppose there was anything wrong in saying in my letter, "four shares to Massachusetts," and I do not understand yet what there is.

By Mr. NIBLACK:

Q. If I understand, according to your interpretation, you received from him $3,000, and delivered to him thirty shares of Credit Mobilier stock, with the dividends and proceeds of the stock, amounting at the time of delivery to thirty shares of Union Pacific Railroad stock, and 80 per cent. in bonds; that you afterward delivered a cash dividend in June, and an additional dividend in Union Pacific Railroad stock, a year and a half ago?—A. Yes, sir; when we settled up the matter.

Q. What do you say the additional dividend of Union Pacific Railroad stock was?—A. I think he had in all one hundred shares.

Q. About seventy shares in addition to the thirty?—A. Yes, sir; to close up the transaction.

Q. I understand you to say, and to have said from the start, that you regarded the Credit Mobilier stock as legitimate for any one to invest in, as a fair, honest corporation, for legitimate purposes?—A. I do.

Q. Then why the necessity of covering up any such investment?—A. There was no necessity; I do not know that I have covered up anything.

Q. Why, then, the necessity of carrying the stock in your name, instead of transferring it to those you sold it to?—A. There was no necessity of doing that; it did not make any difference. It was a matter of convenience for the parties holding these small amounts, some living in Iowa, some in New Hampshire, and some in New York, to have the dividends drawn and paid over to them. It would be very inconvenient for them to come to New York to draw personally the dividends on the little amounts held by them.

Q. Where, then, the necessity of apparently concealing the ownership and allowing the public to infer that these small owners did not own the stock; why not let it be understood that the stock stood in the name of the proper owners if it was a fair, just, and honest transaction?—A. I certainly so considered it, and in this matter I did what Mr. Patterson wanted. I wrote these letters covering a certain point, and saying nothing more about it.

Q. In your letter to Mr. McComb you did not give the names, but simply gave the names of the States?—A. He did not ask for names; he said I was giving too much to eastern men.

Q. Still the letter seems to have an air of mystery connected with it?—A. That is what my friends say, that I never ought to be trusted to write a letter; that I never conceal anything.

Mr. PATTERSON. As I have already stated, so far as I am concerned, I would just as soon have it understood with the public that I own stock in the Credit Mobilier, as that I owned any other stock. I have no feeling on that subject at all. I think it was equally honorable as a business transaction. I simply state the matter as I understood it. I never did receive—and I say it under the most solemn oath—one share of Credit Mobilier stock in my life.

By the CHAIRMAN:

Q. And you did not understand that Mr. Ames was holding it for your benefit?—A. No, sir; I understood I was buying the stock and bonds of the Union Pacific Railroad Company.

Q. You did not understand really that you were equitably entitled to the earnings on this Credit Mobilier stock?—A. No, sir; Mr. Ames says it; if that were the truth I do not care a fig about it. I would just as lief it should be stated in that as in any other way.

Q. But you did not understand it so?—A. I did not understand it so, and that is all there is in reference to these thirty shares of stock. I have no recollection of ever receiving thirty shares, and I do not believe I ever did at the time he speaks of.

Q. It was in January or February, 1868, then, that you received the shares of railroad stock of which you speak?—A. I received the shares in this last transaction; there is no doubt about that. There is no question between Mr. Ames and myself about that.

Q. You have no recollection of ever disposing of the thirty shares of Credit Mobilier stock?—A. I never did that, I know; I am absolutely positive about it.

Q. Have you made any examination to see whether thirty shares of Credit Mobilier stock were entered on the books of the company in your name?—A. No, sir; I have never examined about it. I have taken no pains about it and cared nothing about it.

Q. You have no recollection of receiving thirty shares of Union Pacific Railroad stock as far back as 1868?—A. No, sir.

Q. Have you any account of sale of it from Morton, Bliss & Co.?—A. No, sir. I want to say one word further in relation to these letters. I went to Mr. Ames and saw him in the House and stated to him the charge which was in circulation. I said to him, you know that it is not true; and I asked him to write a letter. I did not indicate to him what to write. A little after that I was in my seat in the Senate, when Mr. Ames came over and showed me a letter he had written at his own option and in such language as he pleased. I said to him that it was satisfactory.

Q. You supposed the letter expressed the honest truth as you understood it?—A. I did, and that is my understanding now. I did not suggest at all what he was to write. I did not understand that he held in trust any stock for me.

Q. That letter of Mr. Ames you understood to be simply and literally true upon the face of it, honestly and substantially true?—A. True in every sense.

By Mr. AMES:

Q. In your final settlement of Union Pacific Railroad stock you received all your dividends on the Credit Mobilier stock; if not at the time they were declared, you received them afterward?—A. I received all that I understood to be due for the money I had paid; that I do not question at all. I put that stock into the hands of Mr. Morton, who sold it. I am now speaking of the thirty shares you say I received in February, 1868. I never received in February, 1868, shares in the Credit Mobilier or shares in the Union Pacific Railroad Company. That I am positive about.

By the CHAIRMAN:

Q. Whatever you did receive in money, bonds, or anything else, you did not understand it was a dividend upon the Credit Mobilier stock?—A. No, sir; I supposed Mr. Ames had very kindly bought the stock and sold it for me, and had made for me a little money in the transaction.

Q. You supposed it was an investment in the stock and bonds of the Union Pacific Railroad, and had no idea there was any Credit Mobilier in it?—A. I have said that several times.

Q. You are not the owner now, as I understand you, of any Union Pacific Railroad stock?—A. No, sir.

Q. And if you did receive thirty shares in 1868, you never sold it?—A. No, sir.

By Mr. MERRICK:

Q. Is Mr. Ames still the owner of certain stock for you?—A. Not to my knowledge; all our transactions have been settled up. He has nothing for me; if he has I should be very glad to accept it.

By the CHAIRMAN:

Q. I understand, Mr. Ames, that the second purchase was a regular purchase of Union Pacific Railroad securities?—A. There was no Credit Mobilier about it.

Poland report, pages 312 and 313. M. G. Emery.

WASHINGTON, D. C., *January* 22, 1873.

MATTHEW G. EMERY sworn and examined.

By Mr. MERRICK:

Question. I will ask you if you had any communication with Senator Patterson in reference to any purchases or negotiations that he was making, or proposed to make, of stock of the Credit Mobilier.—A. Some two or three years since, perhaps two years, he called to see me to procure my indorsement of a note to enable him to raise money, as I understood, to purchase stock of Mr. Ames in the Union Pacific Railroad. I cannot recollect the exact time. By reference to our tickler, the note-book of the bank, I notice that I indorsed a note for $4,000 for him, which was discounted the 19th of February, 1870, and which he paid on maturity.

Q. Was that the only negotiation or loan?—A. I think I have indorsed notes for him two or three times before; I am not sure.

Q. Do you recollect the amounts of these notes or indorsements?—A. About the same amounts, perhaps from $2,000 to $4,000. I am not sure of the amounts.

Q. Did you make any indorsement for any such sum of money in the year 1868?—A. That was prior to the date I named, and I do not think that note was discounted in our bank. He may have used it in Mr. Kelly's bank. When it was I cannot tell you.

Q. Did he afterward speak with you in reference to the disposition he had made of that loan?—A. Some months afterward, perhaps a year, on his return to the next Congress, I asked him how his speculation in railroad stock had turned out. He said "Very well;" that "it was a very good thing."

Q. Did he speak of having received dividends?—A. It is my impression that he did not; I am not sure; I know he told me it resulted very well.

Q. Can you give us now, or hereafter by reference to any memoranda, the date of the earlier loan of which you speak?—A. If it was discounted in the Metropolitan Bank, I might; I do not know that I could by any record of my own.

Q. Was anything said between you and him with reference to Credit Mobilier stock at all?—A. Not at that time.

Q. At any time?—A. Since this investigation has been going on, I met him, and he asked me if I had any recollection of his ever saying anything in regard to his owning Credit Mobilier stock; I told him I had not; my impression at the time he borrowed the money was, that it was to purchase Union Pacific Railroad stock.

Q. As I understand you, both of these loans had reference, as you understood, to the purchase of railroad securities?—A. No, sir; I do not know in reference to that, and I cannot say whether the one I have named was for that purpose, or the previous one.

Q. Did you negotiate a loan in the National Bank of the Republic for $3,000?—A. No; I did for $4,000, the 19th of February, 1870.

Q. The other you supposed to have been negotiated at the National Metropolitan Bank?—A. I presume so.

Q. Did he or not inform you at the time he negotiated the first loan that he wanted to purchase of Oakes Ames stock in a company for building the Union Pacific Railroad?—A. My recollection is that he said Union Pacific Railroad stock. At that time I did not know that there was any other company for the purpose of building that road.

Q. Did he mention to you at any time the amount of dividends that he had received?—A. I do not know that he ever did.

Q. Do you recollect what Mr. Patterson said to you when he first approached you in reference to this loan of $3,000?—A. I do not know that he gave any intimation of what it was for.

Q. Did he mention Oakes Ames's name in connection with it?—A. He stated in connection with one of the loans, that it was to purchase some railroad stock of Mr. Ames.

Q. Did he say anything about Mr. Ames having made a good investment for him?—A. I do not recollect as to that.

Q. Did he say anything to you about being able to get more than the cost of the stock within a short time?—A. No, sir. I have heard from him or somebody else—perhaps since this thing has been broached—within a year, that he received dividends upon the stock. I do not know that he did. I have no personal knowledge at all. I never saw him with any of the stock, or with anything pertaining to it.

Q. Of the two loans you aided him in, one was negotiated at the Bank of the Metropolis in 1868, and the other at the National Bank of the Republic in 1871?—A. I do not know the date of the one at the National Bank of the Metropolis.

Q. And you cannot, from your memory, state whether it was Credit Mobilier stock or stock to build a railroad that was mentioned?—A. No, sir; I recollect nothing of the kind at all as to Credit Mobilier stock.

Poland report, pages 336(?) and 337. Oakes Ames.

Q. How in regard to Senator Patterson?—A. Senator Patterson says he talked with me on the subject long ago, when we were on an excursion or expedition to the northeastern frontier during the war, in 1864. I have no recollection of it.

Q. Not about the stock of this company?—A. So he says.

* * * * * * *

Q. I understood you to state that you had some other papers in reference to this transaction between you and Senator Patterson. Will you be good enough to produce them?—A. Senator Patterson testified that he never received any dividend from this stock, and that he had no money from me on account of it. Here is a receipt which I present to the committee.

(The paper referred to was placed in evidence, and is as follows:)

"WASHINGTON, *June* 22, 1868.

"Received of Oakes Ames $1,800, on account of dividend received by him as trustee on stock held for my account.

"J. W. PATTERSON."

Q. Did you see him sign this paper?—A. Yes. He gave it to me at the time. I wrote the receipt and he signed it. The receipt is in my writing, and the signature is his.

Q. And made at the time of the date?—A. Yes, sir. I also hand to the committee another paper.

(Paper placed in evidence as follows:)

"BOSTON, *May* 6, 1871.

"Received of Oakes Ames two hundred shares Union Pacific Railroad stock, seven hundred and fifty-seven dollars and twenty-four cents in cash, on account of Credit Mobilier stock; and there are still due on the transaction thirty shares of stock in the Credit Mobilier of America, and two thousand in the income-bonds of the Union Pacific Railroad.

"J. W. PATTERSON."

Q. Was that signed by him in your presence and given to you?—A. Yes.

Q. And at the date it bears?—A. I presume so.

Q. The paper itself is in your own handwriting?—A. Yes, sir.

Q. This was the paper given at the time of the settlement made between you and him, of which you spoke in your testimony?—A. Yes, that $1,800 is the check I gave him on the Sergeant-at-Arms, for which he gave me the receipt. That is the final settlement.

Q. Have you still another paper?—A. I have a letter Mr. Patterson wrote me in relation to this matter. He wrote me several which I have destroyed. I found this last night in looking over my papers. It is a letter from Mr. Patterson.

Q. You received it through the mail?—A. I do not recollect how I received it. The letter is written here, and I received it here. I received several others, which, as I stated, I have torn up. This is all I have. This letter is written this winter since the present investigation commenced.

Q. Do you know whether it is in Mr. Patterson's own writing?—A. I do not know that I can swear it is.

Q. Have you had any conversation with him in reference to this letter?—A. I have had several interviews with him since the letter was written.

Q. In reference to the letter?—A. Not in reference to the letter, but in reference to matters the letter alludes to.

Poland report, page 338. Oakes Ames.

Q. In any of the conversations you have had with him, has the fact that he had written such a letter been mentioned?—A. I do not know that it has. I do not know whether it has or not. I think he asked me if I had got the letter he wrote me.

Q. Is this the only one you have received from him this winter?—A. No, sir; I have received several and torn them up. I did not know that I had this until last evening.

Q. Was there any envelope with it?—A. I destroyed the envelope which I received it in. I received it when I got back from home the 7th or 8th of January.

(The letter referred to was placed in evidence, and is as follows:)

"WASHINGTON, D. C., *January* 4, 1873.

"MY DEAR SIR: The facts in respect to the Credit Mobilier, so far as I had any connection with it, were as follows:

"You came to me one day, knowing that a want of means was a chronic evil with me, and said, 'Patterson, if you would like, I can let you have thirty shares of stock in the Credit Mobilier, which I think will be a profitable investment, and will be a good thing for you.'

"My reply, in substance, was that if you had anything which I could properly invest in, and out of which I could make some money, I should be glad to take it, but that I had not the money at that time, and must defer it until I could get it.

"Your reply was that you presumed I could have it later, when it might be convenient, and you regarded it a perfectly legitimate transaction. At that time you did not and could not anticipate you should ever ask for further legislation from Congress in respect to the road, and you never did except when it was forced upon you by the Secretary.

"After this conversation with me, you may have had the impression

that I should take the stock some time, but for some reason or other, perhaps for a want of funds, I never took any of the stock. If I never had any stock in the company, I could not, as I did not have, its dividends.

"If pressed to know if I purchased at any time any bonds or stock of the road, you can say I did at the time they attempted to embarrass you when the value of the stock was depressed, and I paid you the full market value for it. I paid you $7,000 in money for stock and bonds.

"The stock I put into the hands of Mr. Morton immediately to sell as soon as it should go up reasonably in the market, which he did.

"I saw Mr. Morton on my way through, and he said he had never held any stock in the Credit Mobilier for any one, but did not wish to have his name brought into the examination if it could be avoided. I am going to Ohio. I will see you on my return. *Don't fail to correct your original statement before the committee. It must not be reported as it now stands.*

"Very truly,

"J. W. PATTERSON.

"Hon. OAKES AMES."

Poland report, pages 352, 356, and 357. Oakes Ames.

WASHINGTON, D. C., *January* 29, 1873.

Re-examination of OAKES AMES.

By the CHAIRMAN:

Q. Among the checks the Sergeant-at-Arms has laid before the committee dated in the month of June, 1868, drawn by you, is one payable to J. W. Patterson or bearer, $1,800, indorsed by Mr. Patterson; did you give that check to Mr. Patterson?—A. Yes, sir.

Q. For what was this $1,800 paid?—A. It was a dividend of 60 per cent. on $3,000 of Credit Mobilier stock.

Q. It was a cash dividend?—A. Yes, sir.

Q. Did you take a receipt from him?—A. I did.

Q. Have you that receipt?—A. I think you have it.

Q. Have you any other receipt from Mr. Patterson that you have not produced here?—A. Yes, sir.

Q. Will you produce it?—A. Here it is. It reads: "Washington, February 14, 1868. Received of Oakes Ames $2,328 for three bonds of Union Pacific Railroad Company sold for me, being a dividend of 80 per cent. in bonds on the stock of the Credit Mobilier of America, held by him as trustee on my account. J. W. Patterson."

Q. This was made at the time of the date?—A. I presume so; there would be no object in making it any other date.

Q. What are the figures at the bottom?—A. I think the figuring there is mine.

Q. The receipt, then, is written by you?—A. Yes, sir; and signed by Mr. Patterson.

Q. And the figures at the bottom show the transaction?—A. Yes, sir. I paid him $2,223, and deducted $105, which, I think, was the amount due for interest or on the purchase-money. Mr. Patterson would like to appear before you and make some explanation. He thinks there is some misunderstanding about the matter, and would like to have an opportunity to explain.

Q. Have these income bonds drawn any dividend?—A. Yes, sir.

The receipts which I have from Mr. Patterson, Mr. Bingham, Mr. Painter, and others, show that I have given them dividends upon the bonds, and that I had accounted to them for all I had received.

* * * * * * *

Q. You have accounted to Mr. Patterson for his stock?—A. Yes, sir.

* * * * * * *

Q. Have you had any correspondence with any of these gentlemen whose names have been brought in here, except Mr. Patterson, whose letter you have produced?—A. No, sir; I think not.

Q. You have had no communication with them?—A. No, sir; Mr. Patterson is the only one.

Polands report, pages 445, 450, 457, and 458. Oakes Ames.

The book referred to was handed to the chairman, who, after examination, read the following entries:

SATURDAY, *August* 13, 1867.

J. W. Patterson, credit by check for C. M. of A	$3,000 00

MAY 4, 1867.

Sold G. Bradford, 100 C. M. at par	$10,000 00
Interest to May 4	61 67
Less 5 per cent. commission	500 00
	9,561 67

Q. Did you make these entries at the time?—A. Yes, sir; these are the only two entries in this book that relate to this matter in any way.

Q. At the top of the page containing these cash entries of dividends, the date is printed Saturday, January 2, 1869.—A. This book runs a day or two over into the next year. The date has nothing to do with the entry. This is simply an account of the transactions between myself and the different individuals who were entitled to receive their dividends. This was the list of names. The following is the entry referred to:

1868.

SATURDAY, *January* 2, 1869.

H. L. Dawes	× 600
Scofield	× 600
Patterson	× 1,800
Painter	× 1,800
Wilson	× 1,200

Q. Afterward he [James F. Wilson] sold his stock, and there the matter ended so far as you were concerned?—A. Yes, sir The next on the list is J. W. Patterson. I gave you this morning the first entry I had in his case, in my memorandum-book of 1867. The first I find in this is the following:

1868.

Friday, February 14.

Paid J. W. Patterson 2,400$ for bonds of the Union Pacific R. R. Co., as dividend, less 3 pr. ct.	$2,328
Less interest paid	105
P'd cash	$2,223

Per receipt.

Q. That you paid him and took his receipt, which has already been before us?—A. I think that receipt has been shown. There is there the same general enumeration at the end of the book as follows:

Rec'd of J. W. Patterson:	
Cash and Interest	3,105 00
Rec'd for 3 Bonds	2,328
	5,433 00
Feb'y 14, to Cash	2,328
	3,105 00
3,000 U. P. stock.	
3,000 C. M. A. "	

Q. That is crossed off to indicate that it has been settled?—A. Yes, sir. I gave him afterward a check on the Sergeant-at-Arms, for which I produced his receipt.

Q. Have you any further receipts from Mr. Patterson than those which you have already shown to the committee?—A. I have not. I think I have produced three.

Q. This account, as I said, seems to have been crossed off. Have you anything more to say in reference to the dealings between you and Mr. Patterson than you stated before?—A. No, sir.

Q. He had thirty shares of the stock and the dividends accruing from it?—A. Yes, sir.

Poland report, page 280. Moses Dillon.

By the CHAIRMAN:

Q. In this account of Mr. Ames, on the 29th June, there is an item of $1,800?—A. That was payable to Mr. Patterson, was it not?

The CHAIRMAN. Your ledger does not say.

WITNESS. It says J. W. P., does it not?

The CHAIRMAN. No; it does not say anything.

WITNESS, [after examining the journal of the Sergeant-at-Arms' office.] Yes, sir; that $1,800 was paid to Mr. Patterson.

Q. That was a draft payable to him?—A. No, sir; that was a check on the Sergeant-at-Arms payable to him, as I see by the original entry.

Q. Do you remember what kind of money you paid him in?—A. No, sir.

Q. Have you no impression on that subject?—A. No, sir; I do not think I have.

Q. You seem to have some idea of the denomination of the bills which you paid for the $1,200?—A. An indistinct recollection. Mr. Ames, when he drew large checks, always got large money.

Q. Was there anything peculiar to Mr. Ames about that?—A. I do not know. He always drew notes of large denominations.

Poland report, page 178. Thomas C. Durant.

By Mr. NIBLACK:

Q. State whether the Union Pacific Railroad, or men connected with that enterprise, were called upon to assist in the senatorial election in 1866 in the State of Iowa.—A. I do not recollect. I did assist myself.

I had a large interest in Iowa, personally, and during the canvass I assisted.

Q. It has been stated to me that you gave a check for $10,000 to assist in that election.—A. No, sir; I did not. I gave two checks of $5,000 each to assist in that election.

Q. Can you explain the history of these checks, and state for what purpose they were given?—A. For the purpose of securing the election.

Q. Whose election?—A. Mr. Harlan's; for the purpose of securing the influence of some newspapers. I do not know how it was applied. Moses H. Grinnell subscribed in my name, during my absence, to the general republican committee, $5,000, to aid in Grant's election. That seemed to be pretty well past, to object when I returned, and I paid the subscription.

Q. It has been suggested to me, also, that it had been urged upon you very strongly to give Senator Carpenter an interest for congressional influence; do you know anything about that?—A. No, sir; I do not recollect. I am sure I did not do it. Mr. Harlan had been an old personal friend. My personal intercourse with him had continued fifteen or twenty years. He lived on a rival line of railroad through Iowa to one in which I had long been interested, to be sure, but he understood the wants of the State, and, besides, he had been in Washington long enough to know how to care for the interests of the State here.

Q. He was at that time Secretary of the Interior?—A. I believe so; he was not in Congress at that time.

Poland report, pages 427 and 428. H. S. McComb.

Q. You have heard of two $5,000 checks which Dr. Durant says he gave to influence the election in Iowa in 1867; do you recollect about those checks or vouchers? A. I recollect seeing the checks.

Q. Do you recollect whether he claimed them as vouchers for money expended for the Union Pacific Railroad?—A. I think not; I think that was his individual expenditure. They were not included among the vouchers presented to us to audit. My recollection is that they were not vouchers submitted to us to be audited.

By Mr. ALLEY:

Q. Do you say that Oakes Ames was on this committee?—A. No, sir; I did not say any such thing.

Q. Do you say that he was present?—A. I did not say any such thing.

Q. I know you did not; I ask you the question now?—A. I say he was not present at our interview when we had this talk.

Q. Was there any one present with us when I made the declaration you have alluded to?—A. Nobody who could hear you, because their ears would be closed for anything you said that was not according to your view.

Q. I thought there would be nobody present to hear that conversation?—A. That was a conversation between you and myself.

Q. Did you not swear in Philadelphia that I was the only person who refused to sign that report, and the reason I gave was that Mr. Durant was a dishonest man; that these vouchers were not satisfactory, and I utterly refused to sign that report?—A. I did testify to that, and I repeat that testimony now. You were one of the three men appointed on

that committee; you were a tacitly-appointed member. I do not know whether you were regularly appointed or not. You and Mr. Ames came in subsequently and examined the vouchers for yourselves. What conclusions you came to for your own edification I do not know.

The following are the letters placed in evidence by witness in the above testimony, May 21, 1872:

Poland report, pages 339, 340. Oakes Ames.

By Mr. MERRICK:

Q. Have you refreshed your memory in relation to your dealings with any other members of Congress?—A. There is no other. The reason I did not name Mr. Logan before was that Mr. Blaine stated that this committee had nothing to do with Senators. You asked for any other member of the House. There was no other member of the House. I only allude to such names outside of the House as Mr. McComb and others had mentioned, such as were included in his litigation. General Logan is the only name in the Senate that has not been mentioned before, and there is now no other in either branch of Congress.

Q. Neither at that time nor at any other time?—A. No other.

By Mr. MCCRARY:

Q. Did General Logan give you any reason for returning the money and canceling the contract?—A. I do not remember that he did.

Q. Is it not probable that he would have given you some reason for doing so?—A. I don't know that; it may be probable. I don't recollect any.

Q. Do you know whether he spoke of any lawsuit in connection with it?—A. I do not remember. I want to say further to the committee that I have been asked by them several times, and by some of these parties, why I held this stock and did not give it to them. The Credit Mobilier stock was not entitled to any dividends. The stockholders in that company who signed the stipulation making themselves personally liable under the Oakes Ames contract were the only parties who could draw dividends on account of having been stockholders in the Credit Mobilier; these parties holding stock here not having signed that stipulation could not draw dividends, and that was probably the reason why I retained the stock. It would not have been of any use to them, for they could not have drawn the dividends.

By Mr. MERRICK:

Q. You drew them in behalf of the parties, you having signed the stipulation of the Oakes Ames contract?—A. Yes. That was an after consideration, however.

By Mr. NIBLACK:

Q. Do I understand that, having signed the stipulation referred to under the Oakes Ames contract, you could draw the dividends belonging to these various members of Congress as their trustee, while they could not draw them without signing that paper and becoming personally responsible, and that, therefore, you retained their stock in your possession?—A. Yes, sir; I held on to it.

Q. You were trustee, then, for these persons?—A. My attorney in Boston said I was not trustee in any sense. I took this stock originally in my own name, and I put it in my name as trustee to distinguish it from

my original stock. It was not the vote of the company at all that I should hold it as trustee. It was a whim of mine after I took it.

By Mr. BANKS:

Q. In answer to the question of the chairman as to whether you applied to General Logan or he to you, you said they generally applied first, and subsequently you stated that you made efforts to get people interested in the Union Pacific Railroad at an earlier period. What is your recollection of the reasons you gave to these different parties, some of whom you spoke to and others who spoke to you?—A. I cannot give you any particular reason for that. I thought it was going to be a very good thing, and that if I gave stock to any to whom I had not spoken before, it was to give them the advantage of a good investment.

Q. You remember the fact clearly in regard to certain persons that you first spoke to them, and in regard to others that they had spoken to you?—A. Most of them had spoken to me. I do not remember speaking to any of them first on the subject; still it may have been the fact, as they say.

Poland report, page 346. John A. Logan.

WASHINGTON, D. C., *January* 28, 1873.

JOHN A. LOGAN, United States Senator from the State of Illinois, sworn and examined.

By the CHAIRMAN:

Question. Have you seen the testimony of Mr. Oakes Ames in which your name is mentioned in connection with the purchase of Credit Mobilier stock?—Answer, I have.

Q. Will you state to the committee your recollection in relation to the transaction between you and him in regard to the matter referred to?—A. I wish to say this at the commencement of my statement: I have nothing whatever to conceal in reference to this transaction as far as I am connected with it. Mr. Ames has stated that I agreed to purchase certain stock from him. I did so, as a mere business transaction, in the winter of 1867-'68, during the session of Congress. Mr. Ames, in a conversation with me, recommended this stock as valuable, and I agreed with him to purchase ten shares of it at par. I paid nothing to Mr. Ames at any time. He delivered to me no stock and no certificate of stock.

In June, 1868, following, on the 20th day, as my memorandum shows, and as I suppose, the books will show, Mr. Ames came to me and said this stock was entitled to a dividend, or that there was a dividend on the stock. He made up a statement, and handed it to me, which showed that the dividends on the stock had paid for the purchase of $1,000, and that there was an amount coming to me, in excess, of $329. He handed me a check for the $329. I had paid Mr. Ames, as I say, no money, and he had delivered no certificate of stock to me, or to anybody else for me. I took the check, and said to Mr. Ames I would take it with the understanding that if I did not want to receive the stock I would let him know; that it was a matter I would consider about. Three or four days afterward, perhaps, I presented the check to the Sergeant-at-Arms, or some one who was in his office, and received the money on it, $329. I retained the money a few days. In the mean

time I had received from a friend, with whom I was in communication, some letters which caused me to doubt whether it was good stock, or whether there would not be difficulty about it, and I said to Mr. Ames I believed I would not take the stock. Mr. Ames replied "Very well," remarking that it was good stock, and that he thought it was a good investment, and that a man was very foolish, or something of that kind, not to retain it. I paid him back $329, and, I think, two dollars for interest. Mr. Ames hesitated about taking the small amount of interest, but I insisted on it, and paid him the amount, with interest, covering the whole transaction. That is all there is of it. I have examined my memorandum in regard to the transaction, and am able to give the date, which I could not do from memory. I received the check on the 20th June, and returned the money to Mr. Ames on the 10th July following.

I do not say this by way of excuse or covering up anything in this transaction, but simply to state the facts as they were. During the whole of this time I never received a share of this stock; I never had it in my possession; it was never delivered to me, or to anybody for me; nor did I ever receive anything from it, directly or indirectly, except as I have stated to the committee. And I wish to state further, inasmuch as the country is alarmed or excited about this matter, that I had no hesitation in making the agreement with Mr. Ames at the time, so far as any suggestion of corruption or wrong in the matter was concerned. I did not think of such a thing, and I had no suspicion that Mr. Ames thought of anything of the kind. There was no legislation before Congress at the time in connection with the Union Pacific Railroad, nor do I recollect any legislation occurring during the time this negotiation was going on between Mr. Ames and myself; if there was I do not remember it. I only say that so far as influence was concerned, in reference to the Union Pacific Railroad, it was entirely unnecessary for Mr. Ames or anybody else, if they had a desire, to have made any bargain with me out of which I could make profit to obtain my influence for that road. My constituency were immediately interested in its being constructed; I was entirely friendly to it, and have always aided and sustained it, because I thought it was right to do so in all proper things, and would just as willingly do so to-day, irrespective of this investigation, as I ever did. Whenever any matter for the benefit of the road has been before Congress which I considered proper I have always voted for it. I want now to ask Mr. Ames if any legislation, or proposed legislation, was pending during the period of which I have spoken?

Mr. AMES. I do not recollect anything.

By the CHAIRMAN:

Q. You were a member of the House at that time?—A. I was.

Q. Can you state about how early in the winter it was that you first had any negotiation upon the subject?—A. I do not remember the first conversation, because I kept no memorandum of it. I stated at the beginning the time I agreed to take this stock. I might have had frequent conversations with Mr. Ames prior to that agreement. I remember one conversation in reference to the stock in which he spoke of it as being good stock. This was some time along in the first part of that session of Congress. Afterward, on his recommendation, I agreed to purchase it. I cannot give you the date of these first conversations I had with him. The date at which I agreed to purchase was the 10th of February, 1868. I then told him I would take ten shares of stock.

Q. Do you remember whether Mr. Ames had ever proposed to you

to become a shareholder in the company prior to that session of Congress?—A. No, sir; I never had any conversation with him upon the subject prior to that session. We had some preliminary conversations, as I stated, prior to the 10th February, when I agreed to take ten shares.

Q. In the June following, as I understand you, he gave you a statement of the dividends and amount due you?—A. Yes, sir.

Q. There had been a bond dividend which he had sold and given you the benefit of, and also a cash dividend?—A. Yes, sir; he had received the dividends himself, and in his statement to me he accounted for the dividends, and stated that there was $329 due to me after paying for the stock.

Q. When you received the check from him you expressed some doubt as to whether you desired to make the contract complete, and stated that you would take the check and consider of it?—A. I did.

Q. And about the 10th July following you made up your mind, for some reason, that it was not desirable for you to go further in the transaction, and returned him the money?—A. Yes, sir.

Q. I do not know whether it is very important for the committee to know the reasons that influenced you, but I would inquire whether it was some question in relation to the value of the stock that influenced you not to take it, or other considerations?—A. I had, as I said, my ideas in reference to the organization and matters in regard to the contract for building the road from the communications I had received from that friend who was entirely outside of this matter. It was from a contractor on the road. He had been writing to me, and had stated a good deal about the matter of these contracts, and the statements he made suggested to my mind that there might possibly be trouble ahead. If I had not received these letters perhaps I should have retained the money. If I had, I should certainly have come here and said so if the committee had sent for me.

Q. Did Mr. Ames, in the preliminary conversations you had with him prior to February, say anything as to the value of the stock, or how much you would realize on it?—A. He said it would be good stock; he did not make any extravagant statements to me about it.

Q. Do you remember whether he made any specific statement to you about its value?—A. I think he merely made general representations.

By Mr. NIBLACK:

Q. At that session of Congress I believe you were a member of the Pacific Railroad Committee?—A. I believe I was; I do not remember.

Q. Was it in consequence of your being a member of that committee that you had this correspondence with this friend of yours?—A. It may possibly have been; I do not remember the particular reasons that suggested it. I had several letters on the subject; I cannot say now what first gave me the suggestion that led me to reflect upon the subject, the result of which was that I concluded not to take the stock. I may say I had no reason to suppose there would be legislation, although I did not know but what there might be at some future time legislation in connection with the road. I saw nothing in the transaction on the part of Mr. Ames that showed anything more than a mere business matter.

By the CHAIRMAN:

Q. Do you remember whether in the conversations you had with Mr. Ames about it there was anything said as to there being any likelihood of the matter coming before Congress in any shape or form?—A. I do not remember that there was. I looked upon it simply as a transaction

between him and myself as business men. He and I were good friends. He said to me that he was seeking prominent influential men in the country to invest in this stock. I mention that as a part of the conversation, because I desire to state everything.

By Mr. MERRICK:

Q. Were you or not advised of a resolution introduced by C. C. Washburn, 4th February, 1868, into the House, inquiring whether these roads had complied with the provisions of the twentieth section of the law incorporating them?—A. Probably I was advised at the time if it took place; I do not now remember it.

Q. You did not know that at the time you were making this contract with Mr. Ames?—A. It had no reference to it. I had had conversations with Mr. Ames long prior to that. This was the time I told him I would purchase.

Q. Suppose your attention had been called on the 10th of February, when you made your contract with him, to the fact that C. C. Washburn, on the 4th of February, had introduced a resolution inquiring as to whether these roads had complied with their obligations under the law?—A. I would have made the purchase just the same, because I did not look at it in any improper light.

Q. Would the fact of your being a member of the Pacific Railroad Committee, and this resolution being introduced the 4th of February, to inquire into the matter in which these roads had complied with their obligations, have been a sufficient inducement to have withheld you from the investment?—A. It might have been if I had thought anything about it. I had nothing in my mind at that time in reference to any such matter. In fact, I presume Mr. Ames proffered me the stock about which we had had prior conversations, and I said I was willing to make the purchase.

By the CHAIRMAN:

Q. You had learned from Mr. Ames that there was some connection between the Credit Mobilier and the Union Pacific Railroad?—A. I had learned this—and I dislike to confess my ignorance in the matter—I had learned that it was the stock of a company which was constructing the Union Pacific Railroad, but the details of the relations between them I did not know anything about, and really do not now thoroughly, for I have never investigated it.

[To Mr. Ames: Q. I wish to ask Mr. Ames whether the statement I have made accords with his recollection of the facts?—A. Substantially.]

The witness subsequently returned to the committee-room and said:

In my testimony this morning a statement was made which I desire to be corrected. In answer to the question of Mr. Niblack whether I was not a member of the Pacific Railroad Committee at the time, I replied that I did not know, perhaps I was. I went immediately and examined the Journal, and find that I was not a member of that committee at that time. I was not a member of the Pacific Railroad Committee during the 40th Congress. In 1869, in the 41st Congress, the Journal states the committee as follows; William A. Wheeler, chairman; John A. Logan; and so on. This was nearly a year after the transaction occurred. I was not appointed a member of that committee until March, 1869.

Poland report, page 354. Oakes Ames.

Q. You have testified to the check of $1,200, payable to S. C. or

bearer; also to one $329 to Mr. Allison; also $329 to W. D. K.; the same amount to Mr. Wilson; and the same amount to John A. Logan, whose names appear here. These are all the names that appear on the books of the Sergeant-at-Arms of persons in Congress on that day. Are you satisfied that this check of $329, in which your own initials are written, was to pay some one a dividend on that stock?—A. Yes, sir. I don't know why I should draw a check for $329, except for that purpose.

Q. On the next day, June 23, there is a check given by you on the Sergeant-at-Arms for $272.79, without any name in it, payable to blank or bearer; have you any memory in reference to that check?—A. No, sir; I don't know that I can give you any information in regard to that.

42D CONGRESS, 3d Session. } SENATE. { REPORT No. 520.

IN THE SENATE OF THE UNITED STATES.

MARCH 1, 1873.—Ordered to be printed.

Mr. MACHEN submitted the following

REPORT:

[To accompany bill H. R. 4003.]

The Committee on Claims, to whom was referred the bill H. R. 4003, have had the same under consideration, and beg leave to make the following report:

It appears from the transcripts of the deeds and from the copy of the will of John Lawson, all of which are duly certified by the clerk of the Alexandria County court of Virginia, under seal and filed in the case, that Anthony Lawson and Thomas A. Brewis were the owners of the various parcels of real estate mentioned and described in the bill, all of which were situated in the city of Alexandria, Virginia.

It further appears from the report of the Commissioner of Internal Revenue, filed in the case, that each one of these various parcels of real estate was assessed with the United States direct tax; that the owners failed to pay the said tax in each case, and that for the non-payment thereof sale was made by the United States direct-tax commissioners of the State of Virginia, upon the dates and to the persons mentioned in the bill, as is evidenced by the report of the commissioner, and copies of the tax sales certificates filed in the case. The gross amount received by the direct-tax commissioners was about $8,500. From the commissioner's report and the sworn statement of the agent in charge of the property it appears that none of the said real estate was ever redeemed by the owners, and that none of the said purchase-money was ever refunded to them.

Deeds to the lots of ground accompany the petition, and the entire rights of the parties to the various parcels of land and improvements are conveyed to the parties purchasing at the marshal's sale. The committee having examined the case, fully concur in the correctness of the claim, and therefore recommend the passage of the bill.

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 521.

IN THE SENATE OF THE UNITED STATES.

MARCH 1, 1873.—Ordered to be printed.

Mr. KELLY submitted the following

REPORT:

[To accompany bill H. R. 1704.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 1704) for the benefit of Charles Cosby, late postmaster at Uptonville, Hardin County, Kentucky, report as follows:

On the night of September 20, 1870, the post-office at Uptonville, Kentucky, was entered by a burglar or burglars, and, as is alleged by the postmaster, robbed of postage-stamps and money. Information of this fact was not communicated to the Post-Office Department until the 9th day of October following, when Mr. Cosby wrote to the Third Assistant Postmaster-General, giving the details of the robbery, and alleging that "1,400 three-cent stamps, and 99 two-cent stamps, and all the money on hand belonging to the Department was stolen." In this letter he did not state how much money was taken, nor where, or in what manner it was kept. On the 19th day of February, 1872, he made an affidavit setting forth that, on the night of September 20, 1870, he was robbed of $87.40 in money and stamps, but did not specify how much of that sum was in money or what amount in stamps. Mr. Cosby has failed to prove, otherwise than by his own affidavit, that he had any money belonging to the Post-Office Department at the time of the robbery; and, inasmuch as his statements are so vague and indefinite upon the point, the committee think that some other evidence of the loss of money ought to be adduced before relief should be granted.

The principal objection, however, to his claim for relief is, that Mr. Cosby failed to notify the Post-Office Department of the robbery immediately after it occurred. This he ought to have done, so that the Department might have taken steps through its detectives to discover and apprehend the robbers. A failure to do this for nineteen days is such an act of negligence as, in the judgment of the committee, will justify their refusal to recommend the payment of this claim.

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42D CONGRESS, 3d Session. | SENATE. | REPORT No. 522.

IN THE SENATE OF THE UNITED STATES.

MARCH 3, 1873.—Ordered to be printed.

Mr. MACHEN submitted the following

REPORT:

[To accompany bill H. R. 2808.]

The Committee on Claims find, upon examination of the papers in this case, that petitioner, as postmaster at Franklin, Pennsylvania, had authority to deposit funds belonging to the Government in the Venango National Bank of Franklin, which had been designated as a depository of public funds by the Secretary of the Treasury. There was, however, a positive qualification on the part of the Postmaster-General that his deposits should be at his own risk and that he would be held responsible for the money under all circumstances. Under this authority it appears that he did deposit in said bank money to the amount of $2,666.93, which seems to have been public or Government money. This deposit is established to have been made in June, 1865, and the bank failed in March, 1866, and the money was lost. There are several other claims for losses, as postmaster, of public funds, all of which were rejected by the Department, and upon the merits of which the committee concur with the Department. There seems to have been a train of misfortunes attending the petitioner in his official service by which he has been reduced to want; and notwithstanding his agreement with the Post-Office Department to take the responsibility in making his deposits in the Venango bank, the committee are of opinion that, inasmuch as the bank had been made a depository of public funds, and as the funds deposited belonged to the Government, the postmaster was justified in making his deposits therein, and as no fault seems to have been attributable to him by which the loss occurred, there does seem to be justice and equity in his prayer, and the committee therefore recommend the passage of the bill.

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42D CONGRESS, 3d Session. } SENATE. { REPORT No. 523.

IN THE SENATE OF THE UNITED STATES.

MARCH 3, 1873.—Ordered to be printed.

Mr. FRELINGHUYSEN, from the select committee to inquire into certain allegations against Hon. S. C. Pomeroy, submitted the following

REPORT:

The committee appointed to investigate the charges of bribery in the recent senatorial election of Kansas, preferred against Senator Pomeroy by A. M. York and by B. F. Simpson, respectfully report:

That without any avoidable delay they have performed the duty imposed upon them.

The charges preferred by Mr. Simpson consist of a number of alleged specific acts of bribery or attempts to bribe. The charge of Mr. York is that of a single act of bribery.

I. Attention is first invited to the charges of Mr. Simpson.

Mr. O'Driscoll, a member of the legislature, testifies to four different attempts to bribe him; these charges are contested by the testimony of Asa Lowe, David Payne, J. S. Hoke, S. P. Brown, and other witnesses referred to hereafter.

Frank Bacon, a member of the Kansas legislature, speaks of two attempts to bribe him, and his charges are contested by Albert H. Horton and other witnesses referred to hereafter.

William H. Bond, a member of the Kansas legislature, speaks of three attempts to influence him improperly; these charges are contested by the testimony of John J. Murphy, Albert H. Horton, C. A. Rohrabacker, and two other witnesses referred to hereafter.

C. A. Rohrabacker makes the allegation in his testimony that Senator Pomeroy told him to give Mr. Davis, a member of the legislature, two or three hundred dollars. That this charge is entitled to no weight sufficiently appears by the examination of Mr. Rohrabacker's evidence.

The committee are unanimously of the opinion that even if the foregoing transactions were made out as cases of bribery, there is no sufficient evidence to connect Senator Pomeroy with any of them. Mr. William Simpson, a member of the legislature from the neutral lands of Kansas, testifies that he went to Senator Pomeroy's rooms on the 28th of January, as the election was to occur on the 29th and 30th of January, to inquire about the bill in Congress for the relief of the settlers on those lands, and that Senator Pomeroy told him that if he would vote for him, he would pay the expenses of Mr. Laughlin, the agent of those settlers at Washington, and who was supported by the voluntary contributions of those settlers; that the number of settlers is about 25,000, and that Mr. Laughlin's compensation is small. On this charge there is some difference of opinion in the committee; the majority of the committee holding that if the charge was uncontradicted and unexplained, while it would unquestionably present the case of an improper appeal to "motive," it is at least questionable whether it would be the crime of

attempting to bribe—not because of the small distributive amount of Mr. Simpson's contribution, but because he was under no obligation to pay anything. If the sum Mr. Simpson was to pay was a tax, the case would be different. But Senator Pomeroy opposes his evidence to that of Mr. Simpson, and testifies that Mr. Simpson told him how little money Mr. Laughlin the agent had and that he had so written him, and that he had no means to continue at Washington save by voluntary contribution, and that he, Pomeroy, told Simpson he was a friend of the settlers and would in any event contribute to his support, and that when he reached Washington he did accordingly give Mr. Laughlin $50; and Mr. Pomeroy then adds in his testimony, "And hence it is certain that my contribution had no relation to any man's vote."

A majority of the committee are of opinion that under this state of facts and under the evidence, this charge of bribery is not affirmatively sustained. The witnesses, Judge Albert H. Horton, George T. Anthony, John A. Martin, and Mr. Legate, the confidential friends and advisers of Mr. Pomeroy in the canvass, and in a position where they would naturally know, state that they have no knowledge of Mr. Pomeroy using, or authorizing to be used, any improper influences in the election.

And Mr. Pomeroy most positively denies that he ever, directly or indirectly, paid or promised to pay any individual one dollar, or any other sum, for his vote for him at the late senatorial election.

A majority of the committee are of opinion that none of the charges preferred as aforesaid by Mr. B. F. Simpson against Mr. Pomeroy have been sustained.

II. We now come to the consideration of the specific charge of bribery made by Mr. A. M. York.

Mr. York's statement is that Mr. Pomeroy gave him, on Monday, the 28th of January, $2,000, and on Tuesday, the 29th of January, $5,000, as a bribe to vote for him in the joint convention on Wednesday.

Mr. Pomeroy's statement is that he did give him the money at the times and in the amounts stated, not as a bribe, but to carry to Mr. Page as a loan from Pomeroy to aid Page in the purchase of thirty bonds of the United States of the denomination of $1,000, Page having $25,000 in currency.

The question the committee is to determine is not which, if either, of these two statements, painfully irreconcilable, is, in all its details, true; but the question is whether, taking all the testimony together and weighing it, Mr. York has sustained his charge.

There are circumstances that legitimately affect the credibility of Mr. York in this transaction. John M. Holmes testifies to hearing Mr. York say after the senatorial election that "he had determined to defeat Mr. Pomeroy, cost what it might, and that his exposure of Mr. Pomeroy was the work of time." Mr. York testifies that he, W. A. Johnson, G. C. Horton, Major B. F. Simpson, spoken of as a candidate for the United States Senate, had a consultation on Monday evening, January 28, and it was agreed that, if Pomeroy should offer York money he was to take it and expose him in the convention on Wednesday. It was, in the language of Mr. York, the conclusion of those gentlemen there, at that time, that there was no other way of defeating him, and that he would be elected (page 27;) and it was further there agreed that the money should be appropriated to the school-fund of Kansas, and they pledged themselves to secrecy.

Chester Thomas says that Mr. B. F. Simpson, who acted as counsel for Mr. York in this investigation, and is named by him as above, said to him, "Well, we could not afford to have Pomeroy elected; we had to defeat him some way; we were beat and we had to do something."

I. L. Sharp gives like testimony. It appears that the plan was kept secret until Wednesday at the joint convention, when an excited exposure was sprung upon that body and the money was exhibited by Mr. York, and he made the statement that members of the legislature had Mr. Pomeroy's money burning in their pockets, of which fact we not only have no proof, but it appears that Mr. York had no such knowledge. It appears that an effort was made by members to adjourn and also to have a recess for an hour or two, that the truth of the allegations made might be ascertained, and that Mr. York resisted these efforts, for fear, as he says, that Mr. Pomeroy might be able to appoint his own successor. Thus, even if Mr. York's, and certainly if Mr. Pomeroy's, statement be taken as true, Mr. York was the principal actor in an effort not only to betray and defeat Mr. Pomeroy, but to deprive the State of Kansas of its free and deliberate choice of a Senator.

These circumstances do not prove that Mr. Pomeroy did not bribe Mr. York, but they do impair the credibility of Mr. York as a witness, for when a line of deception has been entered upon, no one can say when it is dropped and the golden thread of truth adopted.

The truth which the committee seek is as to what occurred in the room on Monday and Tuesday when Pomeroy delivered the money to York. They were alone and contradict each other. There is, however, evidence relating to Mr. York's purpose in going to Mr. Pomeroy's room. Mr. York says that Mr. Hairgrove told him that Mr. Pomeroy would be glad to have a business interview with him, and that invitation assured him, York, that Mr. Pomeroy was about to offer him money, and was the reason of the private consultation, before alluded to, with William Johnson, B. F. Simpson, and J. C. Horton, when the plan of operations was adopted. William Johnson says Mr. York said at that consultation that Hairgrove had invited him to Pomeroy's room on a business matter, or to have a business interview, that night, and from that they all concluded that that meant a money proposition. J. C. Horton says York did not give the name of the person who had invited him to Mr. Pomeroy's room. B. F. Simpson, the other person present at the consultation, acted as counsel for Mr. York before the committee and was not sworn.

Mr. Hairgrove says he did not give any invitation to Mr. York to call at Mr. Pomeroy's room; that he had a conversation with Mr. York and told him that, if he wanted to see Mr. Pomeroy, he would so tell Pomeroy, but that he never took any message from Mr. Pomeroy to Mr. York.

Mr. J. Q. Page testifies that after his interview with Mr. Pomeroy on this Monday, he saw Mr. York, and told him that Mr. Pomeroy would probably give him a package of money for him, Page, and that he wanted him, York, to bring it to him. This York denies.

Mr. York's testimony is, in effect, though not in words, that on Monday evening before he had the interview with Pomeroy he not only supposed he was about to bribe him, but was so certain and so assured of it, that a pledge of secrecy as to it was entered into with his associates, as to the coming event; that it was determined that the bribery should not be disclosed on Tuesday in the senate or house, but should first be made known in joint convention on Wednesday; that it was assumed the amount was to be so considerable that it would be a suitable contribution to the school-fund, to which it was by agreement destined, and that to make proof thereafter clear that he had received the money from Mr. Pomeroy he was searched at 7 p. m. and found to have but about $40 on his person; after which search, it may be remarked, York

went about the town and saw some two hundred persons before he saw Mr. Pomeroy at 12 p. m., and the only foundation for this assurance of the coming bribe, according to Mr. York, was the fact that Mr. Hairgrove had invited him to a "business interview" to be had with Mr. Pomeroy that evening; and this, as before stated, Mr. Hairgrove denies.

The committee are at a loss to discover from whence Mr. York derived this assurance that he was to be bribed and that it was to be that night, and to be in a large sum, from any fact consistent with his statement. If it be true, as Mr. Page testifies, that he had that afternoon told him that Mr. Pomeroy would probably give him a package of money to bring to him, one can more readily understand this confidence that he was to receive money. But that he had any such notice Mr. York denies. If Mr. York was acting on information Page gave him, there is no evidence that he communicated that information to his associates.

Another improbability in Mr. York's statement is, that Mr. Pomeroy gave him $7,000 in cash, not for his unconditional support in the senate on Tuesday, and in joint convention on Wednesday, if there should be a vote there, but that on Monday night he agreed to give him $8,000 for his vote under a stipulation that he might vote against him in the senate on Tuesday, (when his vote might be as desirable as on Wednesday,) and that he was at liberty even to reconsider his conclusion as to voting for him on Wednesday, and that on such an understanding he paid him on Monday $2,000, and on Tuesday, after he had that day voted against him, $5,000 more. And Mr. Pomeroy did this while it appears in evidence, beyond question, that he was either honorably refraining from all corrupt influences to promote his election, or that he was carefully on his guard against being entrapped in the use of money, and while it appears that Mr. York was attending the anti-Pomeroy caucus, acting as its secretary, and known by Mr. Pomeroy to have been opposed to him.

Now, we come to the consideration of the statement of Mr. Pomeroy, that he gave Mr. York this $7,000 to take to Mr. Page to enable him to purchase bonds of the United States to aid in the establishment of a national bank.

In considering this statement Mr. Pomeroy is entitled, to the extent that other men are, to the presumption of innocence, a presumption somewhat strengthened by the fact that his accusers have failed to sustain their other charges of bribery against him in the same election.

Mr. Page was a man of means and a banker, living at Independence. Mr. McBartney, of the National Bank at Junction City; Mr. Shaw, of the Paola National Bank; and Mr. Legate, the clerk of Mr. Pomeroy's committee, all heard Mr. Page conversing with Mr. Pomeroy during the senatorial canvass at Topeka, about starting a national bank at Independence, part of the conversation relating to the amount of capital required, but not as to Mr. Pomeroy advancing any part of the capital.

Mr. Maxson testifies to Mr. Pomeroy inquiring of him, prior to 27th January, as to Mr. Page's pecuniary responsibility; that he told Mr. Pomeroy that he was responsible and trustworthy.

Mr. Page lived in the same town with Mr. York, and they were friends. It appears, by Mr. York's testimony, that he called on Mr. Pomeroy with Mr. Page some ten days before the occurrence to which our investigation is directed. Mr. Page testifies that he requested Mr. Pomeroy's influence to obtain a national bank at Independence; that Mr. Pomeroy told him that it would require $50,000, but if he had $30,000 in United States bonds he could pay the balance in installments. Page said that he could raise $25,000 in currency, and that Mr. Pomeroy

said he would help him to the balance, as he had helped other young men, and that Mr. Pomeroy said he expected to have the money before the election, and would let him have it.

On Monday, Mr. Page says he went to Mr. Pomeroy and told him he was going home, and it was arranged that Mr. Pomeroy was to send him the money by Mr. Bell or Mr. York. It is to be observed that Mr. Pomeroy then had in his possession the $7,000; and that fact should receive its weight as affecting Mr. Pomeroy's statement. And Mr. Page says that, on the same day, he told Mr. York that it was probable that Mr. Pomeroy would hand him, Mr. York, a package of money for him; and if so, he wished him to bring it to him.

Mr. Page says that he on Monday told Mr. Hairgrove, who was also a promoter of Mr. Pomeroy's election, that he was going home, but was persuaded by Mr. Hairgrove to stay; that he did not stay at the same hotel with Mr. Pomeroy, and did not see him again to speak with him while at Topeka, though he did see him from the door of Mr. Pomeroy's room.

Mr. Pomeroy states, on his oath, that Monday evening, January 27, Mr. York called on him, having sent word that he was coming, and informed Mr. Pomeroy of what was was going on at the anti-Pomeroy caucus; spoke of the favor Mr. Pomeroy had granted his friend Page, and said that Page had requested him to get the money, and forward it to him at Independence, and that he, York, would leave soon after the election for home.

Mr. Pomeroy told him he was not prepared, at that time, to furnish it, although he said he had promised it to Page before he, Pomeroy, left the city. Mr. York said perhaps Mr. Pomeroy had no confidence in him. Mr. Pomeroy assured him of his confidence, and said that he could furnish $2,000 at any time, and thought he should be able to pay the $5,000 next day; and paid him $2,000 then. It is proper to notice that on this Monday Mr. Pomeroy had the $7,000 with him.

During the next day Mr. Pomeroy says he sent Mr. Knight and Mr. Lemuel Pomeroy to look for Mr. Page to inform him of the transaction, if he had not left the city, and to see if it was all right. They could not find him. Neither Lemuel Pomeroy nor Knight was examined on this point. That on the afternoon of that day, Tuesday, Mr. Pomeroy paid Mr. York the $5,000 in currency, in packages of $1,000, with the bank mark on them.

When the alleged exposure was made in the convention, Judge Horton, who was present, says that when a recess was refused, as soon as he could get out of the crowded house, he went to Mr. Pomeroy's room and told him what had happened; that Mr. Pomeroy was overwhelmed; that no one defended him, and said he had done nothing wrong; that while they were talking, a messenger came in, and said that the convention was voting for Senator; that there being much excitement at the hotel, Mr. Pomeroy went to a private house, and as soon as there Mr. Pomeroy told him substantially what Mr. Pomeroy has stated before this committee; that Mr. Pomeroy said that he supposed Mr. Page, now thinking he was going to lose the money, might go back on him, and he would have trouble; but if Page would stand up to the agreement, there was no question that before the country and his friends he would be fully vindicated.

There are several questions that arise in this transaction which are not satisfactorily explained.

Why did not Mr. Pomeroy deliver the entire $7,000 to Mr. York on Monday, instead of $2,000 on Monday and $5,000 on Tuesday?

It is true Mr. Pomeroy says the $5,000 was locked up in his valise,

and the key with his clerk, but the clerk was near; and it is also true that Mr. Pomeroy says he sent out on Tuesday to find Mr. Page, if he was in town, to see that it was all right, and could not find him; and he says that when he hesitated in paying Mr. York anything on Monday evening, he considered it a want of confidence. The same difficulty exists, too, if we adopt Mr. York's statement. On the theory of his story, why did not Mr. Pomeroy pay the whole $7,000 on Monday? He says he only paid him then $2,000.

Why did not Mr. Page, who was present at the convention when the alleged exposure was made, state that Mr. York was to bring him a package of money from Mr. Pomeroy?

It is true it was not certain the money was to be sent; the sum was not definitely fixed; it was to be from eight to ten thousand dollars. Neither was it known to him whether it would be sent by Mr. Bell or Mr. York; and yet it would seem natural for him to have spoken.

How did it happen that no one was present at either of the two interviews between Mr. York and Mr. Pomeroy? Mr. Pomeroy speaks of that fact as merely accidental, he not being entirely certain whether any one was present or not. It is clear, however, that they were alone, and it is unfortunate for the solution of this question that they were so.

How did it happen that Mr. Page and Mr. Pomeroy, holding their relations, did not meet, when both in Topeka from Monday to Wednesday? This may have been accidental if such was the fact. Mr. Page says that he did go to Mr. Pomeroy's rooms, but that there was a great press of people there, so that he could not reach him.

Why did not Mr. Pomeroy deliver the $7,000 to Mr. Page himself when he called on Monday? He then had the money.

Why did not Mr. Pomeroy give Mr. York the money he was to take to Mr. Page in a sealed package?

Mr. Pomeroy may have desired, in view of the coming election, to conciliate Mr. York, by showing him that he was assisting his friend Page, by showing him that he was aiding in establishing a bank in his town, and by reposing confidence in him; but even the suggestion of this improper motive is not a satisfactory answer to these questions.

There are also some discrepancies between the statements of Mr. Pomeroy and Mr. Page, such as to whether it was in the morning or in the afternoon of Monday that Mr. Page last called on Mr. Pomeroy; perhaps they are not other than such as show the absence of arrangement between them as witnesses. These are questions, and there may be others, to which the committee do not find satisfactory answers.

The committee, some of whom were absent on other duty from time to time, as the evidence was being taken, did not receive the printed testimony until the morning of Saturday, the 1st instant, and have given the evidence such examination as, in the press of business, they have been able, which has been by no means as thorough as was desirable.

The committee bearing in mind, while examining the evidence, that the whole transaction, whatever view be taken of it, is the result of a concerted plot to defeat Mr. Pomeroy, and remembering that the burden of proof is on the party making the accusation, have come to the conclusion that Mr. York has not sustained his charge by sufficient proof, contradicted as it is by the evidence of Mr. Page and Mr. Pomeroy.

The committee report herewith the evidence taken, and the briefs of the respective counsel.

FRE'K T. FRELINGHUYSEN.
WM. A. BUCKINGHAM.
J. L. ALCORN.

VIEWS OF MR. VICKERS.

I cannot forbear saying that this case is not entirely free from difficulty and embarrassment; but as a preliminary remark, I can say that I do not think any connection has been proved between the persons alleged to have offered bribes, being the friends of Mr. Pomeroy, and that Senator. Most, if not all, these instances of attempts to bribe have been denied by the persons who it was said made the offer. Nothing has been traced to Mr. Pomeroy, and there is no difficulty in acquitting him of all charges of that character. The counsel for the prosecution, when the testimony was admitted, proposed to connect Mr. Pomeroy with them, directly or circumstantially. The result proved a failure to do so. I do not think that the offer of Mr. Pomeroy to assist Mr. Laughlin, an agent of certain poor settlers upon neutral lands in Southern Kansas, if Mr. William Simpson would support him for Senator, in connection with the surrounding circumstances, is of such a character as to amount to a direct offer to bribe, although the motive held out to Mr. Simpson cannot be approved. Mr. Pomeroy denies substantially any motive or attempt to influence Mr. Simpson's vote, in the conversation held between them.

I dismiss this part of the case, and come to the charge of actual bribery made by Mr. York against Mr. Pomeroy. Mr. York has testified before the committee, unequivocally, to the offer of a bribe by Mr. Pomeroy to him for his vote, as a member of the legislature of Kansas, for Mr. Pomeroy for the place of United States Senator; that Mr. Pomeroy paid him $2,000 on Monday night preceding the election on Tuesday, and $5,000 on Wednesday, before the meeting of the joint convention of the legislature on that day; that he, Mr. York, produced the money before the convention; stated all the circumstances, and declared that he knew of five or six members of the convention who had Mr. Pomeroy's money burning in their pockets, and he would disclose their names at a proper time. Mr. Pomeroy, in his testimony before the committee, denied emphatically the truth of Mr. York's statement, and averred that he handed him $2,000 and the $5,000 to him to be delivered to Mr. Page, a banker at Independence, to whom he had promised to loan the money, to aid in establishing a national bank at Independence, in Kansas. Mr. Page swears that he told Mr. Pomeroy to send the money by Mr. York, or Mr. Bell, (a member of the legislature,) and that he told Mr. York that he had told Mr. Pomeroy, on Monday preceding the election, to hand the money over to him, to be carried to Mr. Page. Mr. Page also swears that he did not leave Topeka till Thursday, the day after the election, but did not converse with Mr. Pomeroy after Monday. Mr. Page had several conversations with Mr. Pomeroy upon the subject of establishing a national bank—some of them in the presence of others.

The following is a statement of part of the cross-examination of Mr. Pomeroy before the committee:

"Question (to Mr. Pomeroy.) You say that on Monday night you gave to Mr. York $2,000; where, at that time, were the $5,000?

"Answer. They were in my valise; not in my trunk."

"Q. Why did you not give him the $5,000 as well as the $2,000?

"A. I had not it with me in the room at the time, and I intended to see Mr. Page the next morning.

"Q. In what room was it that you gave Mr. York the $2,000?

"A. In what they call my private room.

"Q. Your reception room?

"A. No; back of that.

"Q. Where was your valise that contained the $5,000?

"A. It was in a closet, or in a place which I extemporized for a closet, behind my trunk.

"Q. In the same room?

"A. Yes, sir.

"Q. Then why did you not give him the $5,000 at the same time that you gave him the $2,000?

"A. For the reason that I wanted to see Mr. Page.

"Q. Had Mr. Page told you, Mr. Pomeroy, you could give the money to Mr. York?

"A. Yes, sir; he had told me I might send it to him by Mr. York; that he was going to leave town, and to send it by Mr. York or by Mr. Bell.

"Q. When was it that Mr. Page told you to send the money by either of those gentlemen?

"A. On Monday.

"Q. In the forenoon.

"A. In the forenoon, the same day.

"Q. You say you did not give him the $5,000, because you expected to see Mr. Page the next day?

"A. Yes, sir.

"Q. You knew, then, that Mr. Page had not left Topeka then?

"A. I did not know whether he had or not. He had told me he thought he should go. I sent out for him on Tuesday twice, to find out whether he had gone.

"Q. As he had told you you might send the money by Mr. York, why did you hesitate to give Mr. York the whole $7,000?

"A. For two reasons: First, I wanted to know if it was all right from Mr. Page; and then I had not the $5,000 accessible at that time.

"Q. Did I not understand you that the $5,000 were in the same room?

"A. Yes, sir; but in a valise. I kept money and private papers in a valise which Mr. Lemuel Pomeroy, my clerk, had the control of and key of; but the trunk I had the key of myself.

"Q. You had not the key of the valise in which the $5,000 were?

"A. No, sir; I had not.

"Q. Where was Mr. Lemuel Pomeroy at that time?

"A. He was in the reception room or abed. He was about the hotel.

"Q. I understand you took no memorandum from Mr. York that you had delivered the money to him?

"A. I did not.

"Q. Was this a subscription to the stock of that bank?

"A. No, sir.

"Q. It was a loan?

"A. It was a loan.

"Q. Interest-bearing or not?

"A. I had made no particular arrangement. I told him I would help him to money enough with what he had got to buy thirty bonds. He was to settle with me after he got the currency here.

"Q. How long was he to have the money?

"A. I think it was thirty or forty days. It generally takes thirty days after putting the bonds in to get the currency from the Department."

I have not referred to all the testimony, but only a small portion of it, the whole being printed, and to which the Senate is referred; but I have noticed the material portions of Mr. York's and Mr. Pomeroy's and Mr. Page's, so as to bring the point at issue more distinctly and prominently into view. It will be seen that Mr. York stated to the joint convention that he knew of five or six members of that body who had Mr. Pomeroy's money burning in their pockets, and at a proper time he would disclose their names. A few days subsequent, when told by a member that his statement of that fact, and the manner of making it, impressed his mind with the supposition or belief that he (York) had received his information from Pomeroy, he made no reply nor entered into any explanation. Mr. York, when interrogated before the committee, does not remember the statement made in reference to the bribery of other members, and pleaded excitement as an excuse for his defect of recollection. That part of the declarations of Mr. York before the convention had, no doubt, its effect upon their minds, coupled with the revelations about the money transaction and the production of the funds, and doubtless he intended it should have. He had Mr. Pomeroy's defeat in view, and as auxiliary to other statements they were introduced. This additional charge of bribery of other members was of such a notable character, which, if true, could not so soon be forgotten. It would require the largest measure of charity to believe that Mr. York could have forgotten them, or the charge which he made. The conclusion is inevitable that he stated as facts what he did not know, or, in other words, that he manufactured the statement for the occasion. Mr. Pomeroy denies all the material facts, and asserts that the money was handed to Mr. York to be taken to Mr. Page. He denies explicitly every offer directly or indirectly to bribe Mr. York, or the offer or delivery of money for his vote. But there are circumstances connected with the transaction that cast a somber hue over portions of it. The lateness of the hour; the place, the room of Mr. Pomeroy; the absence of all witnesses; the fact that Mr. Page was then in Topeka; the delivery of a portion of the money, and the balance on Wednesday morning, the day of the meeting of the convention; the limited acquaintance of the parties; no receipt or memorandum taken; the fact that Mr. Borland loaned Mr. Pomeroy $5,000 on the Friday preceding; (Mr. Pomeroy states, in his testimony, he wanted it for Mr. Page;) the fact that on Saturday following he did not inform Mr. Page he had the money; that on Monday he told Mr. Page that he expected to receive the money before he left Topeka, and was told by Mr. Page to send it by Mr. York or Mr. Bell, (Mr. York residing in the same town with Mr. Page—Independence,) when he had the Friday before borrowed the money from Mr. Borland, and had it in his possession at the time he told Mr. Page he expected to receive it; and that the money was not inclosed in any envelope; the fact that Mr. Pomeroy states nothing was said about security or interest, (although the parties had not known each other for more than one or two years, and resided at different and distant points;) that Mr. Page states he was to have it without interest; the additional facts elicited in the cross-examination of Mr. Pomeroy by one of the committee, that the reason he did not pay over the whole $7,000 to York on Monday night, but only $2,000, was that he wanted to see Mr. Page first; and, on further cross-examination, that he had not the key of the valise where the $5,000 was placed; first that the money was not in the same room (the back room) where the parties were, and afterwards that it was: these and other circumstances connected with the affair show discrepancy apparently irreconcilable. Mr. Pomeroy, when testi-

fying, would naturally state the case as favorable to himself as it could be done consistently with the facts.

On the other hand is to be considered the circumstances leading to, attendant, and consequent upon the alleged receipt of money by Mr. York from Mr. Pomeroy. Four persons conspired to defeat Mr. Pomeroy's election to the Senate of the United States; the plan of operations was concocted at night, and Mr. York, as the chief conspirator, was selected or volunteered to carry out the programme. He went to Mr. Pomeroy's rooms very late at night. His object was to obtain Mr. Pomeroy's confidence and his money, and then betray him. He induced Mr. Pomeroy to believe that he would be his friend, but that he wanted money. He asserts that he sold his promised support to Mr. Pomeroy for $7,000; received the $2,000 before he left, and the balance, of $5,000, the next day; that he took the money to the joint convention, made an exciting speech and exposure, and strenuously opposed all motions for adjournment or recess to allow Mr. Pomeroy an opportunity for denial or explanation. Although a witness who acknowledges the turpitude of his conduct, and the iniquitous means he resorted to to deceive and induce another to commit an offense that he might betray him, may possibly be believed, yet the mind cannot relieve itself of the unfavorable effect which the facts stated and the moral taint of the witness must produce. Detectives, it is said, are employed by governments and by individuals, and to use stratagems and devices to detect suspected offenders. But the cases, I presume, are not exactly parallel. Mr. York and Mr. Pomeroy were personal and political friends, and Mr. York admits that he sought Mr. Pomeroy and exerted his influence to induce him to commit a crime by the offer of a very valuable consideration. A detective may lay his plans and place temptations in the way of one he wishes to entrap, but I do not suppose that he solicits and bargains for its commission. I should be reluctant to credit the testimony of one who confessed to such practices, unless he was strongly corroborated. The true theory should be, that the evidence of one who acknowledges his own wrongful and vicious purposes and acts to seduce another into the commission of crime, should be corroborated in the essentials of his testimony. While he may be competent to testify, his credibility is sensibly and materially affected. Unless some such rule prevail, any citizen in the community might be unjustly convicted upon the false testimony of a sharp but unprincipled witness. Character alone will sometimes outweigh the charge of an accuser, unless corroborated. In my opinion, neither governments nor individuals should countenance the violation of truth or morality to accomplish any purpose.

Taking all the testimony and circumstances into consideration, and weighing them carefully in equal scales, I cannot decide that the guilt of Mr. Pomeroy is established beyond a reasonable doubt. If I were a judge or a juror, I could not convict upon such testimony. The duty of the committe was to take the testimony and report upon it to the Senate, with their convictions of its bearing and effect. They have, in the short time allowed, and under difficulties and inconveniences arising out of their senatorial duties and engagements on other committees, and some delay in receiving the printed testimony, been prevented from giving as thorough a consideration of the evidence as they desired to do. But considering the nature and character of the testimony for the prosecution and defense, with all the surrounding circumstances, I have not been able to conclude, beyond a reasonable doubt, that the charges against Mr. Pomeroy have been sustained.

G. VICKERS.

VIEWS OF MR. THURMAN.

I cannot agree with the report of the majority of the committee. I think that the testimony proves a corrupt offer by Mr. Pomeroy to Senator Simpson, of the Kansas legislature, to obtain the vote of the latter.

I also believe that the testimony convicts Mr. Pomeroy of having attempted to bribe Senator York, of that legislature, to vote for him; that Pomeroy delivered to York $7,000 is not denied. The only material issue between them is, for what purpose was the money delivered? York says that it was a bribe for his vote. Pomeroy says that it was handed to York to carry it to one Page, whom Pomeroy had promised to assist in starting a national bank. In my judgment, the statements of Mr. Pomeroy on this subject are contradictory, are inconsistent with Page's statements; are so opposed to the usual circumstances attending a business-transaction, and are so improbable, especially in view of the circumstances attending the senatorial election, that reliance cannot be placed upon them. Perceiving no good to result from an elaborate statement of the testimony, and reasons that bring me to these conclusions, I refrain from making such statement. Were there time for the Senate to consider the subject fully, I should feel it my duty to give at large the reasons for my convictions. But this is the last day of the session and of Mr. Pomeroy's senatorial term. Before the reports can be printed, much less considered, the session will be at an end. I therefore say no more than to repeat the conclusions to which my mind has, reluctantly and painfully, been brought.

POMEROY INVESTIGATION.

WASHINGTON, D. C., *Monday, February* 17, 1873.

ALEXANDER M. YORK sworn and examined.

By the CHAIRMAN:

Question. Mr. York, were you a member of the senate of the legislature of Kansas in January last, continuing into this present February?

Answer. I was.

Q. You still hold that position?

A. I do, sir.

Q. That legislature met at Topeka?

A. Yes, sir.

Q. Did you see Mr. Pomeroy there?

A. I did, sir.

Q. What day did you first see him?

A. I first saw him, I think, on Monday or Tuesday, the 13th or 14th of January.

Q. Did anything transpire between you and him at that time; and if so, what?

A. Yes, sir; I met him at the foot of the steps in the hall on the first floor of the Tefft House; we spoke to each other, and shook hands, and he said something about my not having been to see him or his having expected to see me, and asked me to come and see him.

Q. Did you see him after that?

A. I did, sir.

Q. When?

A. I think I saw him next that same week, perhaps on Thursday or Friday.

Q. Under what circumstances, and what occurred?

A. I saw him in his room, on the second floor of the Tefft House, in company with Mr. Gilmore; I went to Mr. Pomeroy's room with Mr. Gilmore to ask if Mr. Pomeroy could not use his influence to aid Mr. Gilmore in getting a clerkship of one of the committees.

Q. Did you go at Mr. Pomeroy's request or not?

A. At that time?

Q. Yes, sir.

A. I did not, sir.

Q. State if anything occurred at that time?

A. I do not think, sir, that anything occurred except on that subject; there was a few moments' conversation in regard to the request of Mr. Gilmore—that Mr. Gilmore desired the clerkship of a committee.

Q. Did you see him after that?

A. I did, sir.

Q. When and where?

A. The next time I saw him to speak with him I saw him at the table—I boarded at the same hotel he did, and frequently saw him at his meals—and the next time I saw Mr. Pomeroy to speak to him was on Wednesday or Thurday of the week following, at night.

Q. About what date was that?

A. Well, sir, that would be the 22d or 23d day of January.

Q. Where was that—at his room?

A. Yes, sir; that was at his room.

Q. How did you come to go there?

A. I went there on the invitation of Mr. Page.

Q. Did anything transpire in reference to this matter then?

A. Yes, sir; we had some conversation in regard to the senatorial matter; there were three other gentlemen in the room during our conversation.

Q. Was it a general conversation as to the senatorial matter?

A. I think all the gentlemen took part in the conversation, but the others said but little; that conversation was generally between Mr. Pomeroy and myself.

Q. State what action occurred at that interview.

A. The conversation that occurred?

Q. Yes, if it has any bearing on this subject.

A. For a few moments our conversation was general, and then I asked Mr. Pomeroy the question direct whether he wrote the Ross letter or not; and before replying he took from his pocket three letters, one from a Mr. Stewart, another from Mr. Stevens, and another from Mr. Clarke. He read these letters to me, and after he had finished reading them he said: "There is my answer," or words to that effect; and then asked me again if I believed he wrote it. I replied to him that he had not told me whether he wrote it or not. He then replied: "I did not write it; do you now believe that I wrote it?" I told him in effect or substance that I was not prepared to say whether I believed he wrote it or not, and then made a remark that he was either one of the worst men, or worst scoundrels, or words to that effect, that ever lived, or one of the worst defamed men that ever set foot on Kansas soil. That was the substance of the conversation that occurred in regard to the Clarke letter.

By Mr. THURMAN:

Q. Clarke or Ross letter?

A. The Ross letter. He stated at the same time that Mr. Clarke had been there and given him the letter that he showed me, and that he came there voluntarily.

By the CHAIRMAN:

Q. When did you see him afterward; what other interview?

A. My next interview with Mr. Pomeroy was on the Monday night following.

Q. That was about what date?

A. That was the 27th of January.

Q. Where did you see him; under what circumstances, and what occurred?

A. I saw him at his rooms; the first time that evening was somewhere between half past 8 and half past 10 o'clock. I cannot be very definite as to the exact hour. At that interview our conversation was general.

Q. How did you happen to go to his room?

A. I went to his room at the invitation of himself, as conveyed to me through Mr. Asa Hairgrove.

Q. Did anything transpire there in reference to this matter charged?

A. Not at that interview, sir.

Q. When next did you see him?

A. I next saw him at 12 o'clock that night.

Q. Where?

A. At the door communicating with the parlor—the door of his room communicating with the parlor of the Tefft House.

Q. How did you happen to go there at 12 o'clock at night?

A. Because when I had left Mr. Pomeroy upon the interview preceding that——

Q. That same evening?

A. Yes, sir; it was with an engagement that I should return at 12.

Q. An engagement made between you and Mr. Pomeroy?

A. Yes, sir.

Q. What transpired there?

A. I went to the door and Mr. Pomeroy came to the door and partially opened it, and told me he had some gentlemen with him, and that he would be detained for a short time, and requested me to call again at 1 o'clock, when he would be able to see me alone. I wish to state that, in giving this, I simply give, as near as I can remember, the conversation; that is, I give the substance of it—the idea of it.

Q. Did you go away and return at 1 o'clock?

A. I did, sir.

Q. Was any one there then?

A. No, sir.

Q. State what occurred.

A. Well, I remained with Mr. Pomeroy, I should judge, an hour and a half to two hours. We had considerable conversation in regard to the senatorial question. He showed me his lists—the lists of members of the legislature—that he expected to vote for him at the first ballot, and those he expected to vote for him at the second ballot. He showed me his marks—private marks—indicating how the members of the legislature stood in regard to the senatorial question. I should judge that we occupied somewhere near an hour and a half in that general conversation. He desired that I should support him; he desired that I should particularly do it upon the next day—upon Tuesday.

Q. Was there to be a legislative convention on that day?

A. The ballot was taken in separate houses on the following day—Tuesday.

By Mr. THURMAN:

Q This was Monday night?

A. Yes, sir; at 1 o'clock in the night.

By the CHAIRMAN:

Q. After that general conversation for half an hour, what occurred?

A. I remarked to Mr. Pomeroy to the effect that I did not see any object in my remaining any longer; that I could not take the same view of the senatorial question that he did; that I had been invited there to have a business interview with him, and asked him if I was correct. He said I was correct, but he stated that he could not offer any money until I had said I would vote for him; that he was too old a politician to bribe votes, but said that if I would say that I would vote for him I would then be one of his friends and he could then aid me, or that it would be right, perfectly right, to aid me the same as he would any other of his friends. I told him I could not vote for him upon Tuesday; that I must vote for Mr. Lowe upon Tuesday. He then said, "Well, say you will vote for me upon Wednesday." I thought of it a moment and then said, "I will vote for you on Wednesday with the privilege of reconsidering it," or "the privilege of reconsideration," or words signifying that. Mr. Pomeroy then asked me what I wanted, and I told him it was not for

me to say. He then said, "I will give you five thousand dollars;" and I indicated I thought he must place a low estimate upon my services, and he manifested some astonishment and said, "Why, five thousand is a very large sum; it is almost a fortune for some men." Those were very nearly his words; I think those were his words. I replied that it would or that it might be under some circumstances, but when he considered what he was asking of me, and all the risk I was taking—my honor, my reputation, and the confidence of my friends—all that would be jeopardized in it—that I did not think it was a very large sum; and he then asked me what I thought I ought to have. I replied to him that I thought the least sum I ought to take was ten thousand dollars; and after a little talk as to his estimate of my services and the benefit I could be to him he told me he would give me ten thousand dollars if I could wait for half of it ninety days. I told Mr. Pomeroy that I would prefer it would be a cash transaction, and he made some reply about his word being as good as gold, or to that effect; and I referred to a transaction, and asked him whether he had not had a similar transaction with Mr. Reynolds—Milt. Reynolds—a few years ago, in which he had pleaded want of consideration when he was sued. He said he had agreed or promised to help Mr. Reynolds to build up the party in consideration of Mr. Reynolds's services to the party, and that Mr. Reynolds had not served the party as he ought to do, and therefore the consideration failed; that was the idea. He finally agreed that he would give me eight thousand dollars; that he would pay me one thousand that night, that he would pay me five thousand dollars the next day, and that he would pay me two thousand dollars the day following. I use the term, "next day," as meaning Tuesday, and "the day following" as meaning Wednesday; it was really Tuesday morning then. He went to a trunk; we were sitting nearly facing each other; the trunk was to his right hand and to my left hand; he went to the trunk and took out a package of money containing a thousand dollars. There was a table set to my right and his left. We were sitting like this, (illustrating;) it was a small table; he was this side occupying the position I am occupying now, and I was sitting facing him. The trunk was to his right and the table to his left. When he arose and went to the trunk he lifted the lid and took out a thousand-dollar package and laid it upon the corner of the table next to him; it was folded over. He said there was a thousand dollars. I made the remark, in effect, asking him if he had not better make it two thousand that night, and four thousand next day, and two thousand the day following; and he said he was willing to, or something like that; he did not seem to hesitate, but took out his pocket-book for holding bills and opened the pocket-book, and counted out a thousand dollars in one-hundred-dollar and fifty-dollar bills and laid that with the other money. I then took that money, put it in my inside vest-pocket—in this vest which I now have on; I put it right in there without anything around it—that is, no envelope or anything of the kind, putting it in my pocket. He told me then that the next day he would pay me four thousand dollars, and two thousand dollars the following day. We had some general conversation after I took the money, and among other things he indicated that he thought I had made a good start that night, and spoke of the political arrangements and what he proposed to do, and those that were working for him; something of their plans—considerably of their plans for the future; how they proposed to aid me politically, and spoke of his willingness to aid me by money and by political influence. Another thing that he mentioned: He asked me, after I had taken the money, what I would do with the

money so that it would not be known that I had received it, and asked me if I would put it in any of the banks there. I told him that I had a good trunk with me, and that I would change my quarters, or I would have my room alone—put it in my trunk until I went home; that I would go home after the senatorial election, and at home I had a burglar-proof safe, and that I would put it in there, and so would have no necessity for putting it in a bank, and it would not excite any suspicion from the fact that I had handled money during the year previous; that I had been loaning money, and had been talking of going into a bank; that the fact of my having money would not excite any particular suspicion, from the fact of my having handled money. In closing our conversation, Mr. Pomeroy told me that if I needed money at any time to let him know and he presumed he could help me, or words to that effect.

Q. All that occurred on this evening?

A. All that occurred that night; yes, sir.

Q. Have you got through with the statement of what occurred that evening?

A. I have not pretended to give the conversation in full—in detail; I have simply given an outline.

Q. I understand that.

A. I do not remember anything further now.

By Mr. THURMAN:

Q. Was anything said to you about your going to Congress?

A. Yes, sir. He said it had been determined that if I should join them—that is, the Pomeroy men—I was to be the next congressman from Southern Kansas, and he spoke of my location as being favorable; that Independence was one of the political centers of the State, and that my being located there rendered it very advantageous in that respect, and that as to the three congressmen we now had he should set the machinery to work to secure their defeat at the end of two years, or would teach them it would not do to combine against him. The conversation that occurred I have only attempted to give in outline.

By the CHAIRMAN:

Q. If this is all that occurred that night, state when next you saw him.

A. I next saw Mr. Pomeroy that day, Tuesday, at four o'clock in the afternoon.

Q. Where?

A. At Mr. Eldridge's; one of Mr. Eldridge's rooms in the Tefft House in Topeka.

Q. What occurred there?

A. I went into the room five minutes before four o'clock; I looked at my watch before entering, and I remember at the time of being a little in advance of the time. I laid down on the bed with my overcoat on. A brother of Major Eldridge was in the room; he came into it about the time I came in. Very shortly after Mr. Pomeroy came in the room through a door opening into the hall. When he came in he remarked he thought Tom was there, or some words of that nature or to that effect, meaning Major Eldridge, and said it was no matter, and then Mr. Eldridge—the one that was in the room—went out. We then took seats.

By Mr. THURMAN:

Q. What is Mr. Eldridge's given name—the one that had that room?

A. T. B. Eldridge.

Q. Thomas B. Eldridge?

A. Yes, sir.

Q. He was the one who had that room?

A. He was the one I supposed had the room. There was a communicating door between that and another room in the corner, that was occupied, and they were used together. I do not know who was with Mr. Eldridge in the room.

Q. What was his brother's full name?

A. I do not remember what his given name was, sir.

By the CHAIRMAN:

Q. Proceed with your statement.

A. There were two chairs. When I went in they were sitting in that way, (illustrating,) towards the bed, or between the bed and the wall; there was another chair placed with the back in that way, (illustrating;) two chairs were just in that position when I went in. After Mr. Eldridge went out Mr. Pomeroy took one chair. I forget whether I took the other or took my seat on the edge of the bed. The first thing Mr. Pomeroy did was to take out and hand me a package; it was done up in a piece of brown paper and tied with twine, and as he handed it to me he said there were $5,000, and at the same time he took out of his pocket a pocket-book for bills and opened it; it contained currency; and as he handed over that, I remarked, "are you going to pay me $5,000 to-day instead of $4,000?" He stopped a moment—thought a moment—and said, "I would like to take a thousand dollars out of that package," or something like that. I said, "Mr. Pomeroy, had you not better leave it as it is," or "you had better leave it as it is." He said, "very well," and folded up his book and put it in his pocket. He wanted me to go to the caucus that night—to his caucus. I told him I had been up nearly all the night before, and that I was worn out and I felt as though it would be better for me to go to my room and get some rest and think over what I would say the next day. I told him I intended to do my most effective service on the floor of the joint convention the next day. I do not remember anything else that occurred, or any other conversation that occurred, unless it was some general remarks that he would like to have me in his caucus to encourage the boys, or something of that kind; and just as he was going out of the room, after he had reached the door, he made the remark that Moonlight, meaning Senator Moonlight, (we have a Senator of that name in our legislature,) had just sent him word that he was going into the caucus—that is, our caucus, the anti-Pomeroy caucus—to play hell with it. That, I think, was his concluding remark, and he passed out of the door. That is the last time that I have seen Mr. Pomeroy until to-day.

Q. Was there any other consideration talked of or given except that which you have stated for the money he gave you?

A. None whatever, sir.

By Mr. THURMAN:

Q. Have you stated all the conversation that took place on that last night?

A. On Tuesday?

Q. Or on Tusday afternoon?

A. I think I do not remember anything else now that occurred. The conversation or interview was brief—very brief, indeed.

Q. Have you stated all the conversation that occurred on Monday night?

A. I have not stated all, because, as I said before, I have only given the outline, but I think that I have outlined our conversation.

Q. Was anything said at either of these conversations about what you would say in the joint convention?

A. Yes, sir; he spoke of the service that I could do him in explaining my vote.

Q. At which meeting was that?

A. That was the last meeting I had with him on Monday night.

Q. What did he say?

A. It was in reply to my naming $10,000; it was, in substance, that he would not think of giving me so large an amount if it was not from the reputation that he said he knew I had at home, and that I was regarded as a truthful man, and that when I got on the floor of the convention in explanation of my vote, and stated that I had investigated these charges against Mr. Pomeroy and found them to be false and malicious, there would be a great many that would believe me, and that the effect would be to create disorder and confusion in the opposition.

Q. You just now said that conversation was on the last night?

A. Well, the last conversation was on Monday night; that is, at 1 o'clock.

Q. You mean it was the last conversation on Monday night?

A. Yes, sir.

Q. Not that it was in the conversation on Tuesday afternoon?

A. O, no, sir.

By the CHAIRMAN:

Q. You did not see Mr. Pomeroy the next day?

A. No, sir.

Q. What occurred the next day?

A. Do you mean the following Wednesday?

Q. This was Tuesday afternoon?

A. Yes, sir.

Q. You did not see him Wednesday?

A. No, sir; not until to-day.

Q. When did the convention meet?

A. The joint convention met at 12 o'clock on Wednesday.

Q. What transpired in reference to this affair?

A. Well, sir, I stated in a brief speech, or outlined, the transaction between Mr. Pomeroy and myself, and I passed the money up to the secretary of the senate, with a request, in the first place, that it should be counted to ascertain if it was correct to the amount as I stated it, and then I subsequently requested that it might be used as a fund to investigate these charges of corruption against Mr. Pomeroy.

Q. Why did you press him to increase the sum?

A. I did it for the purpose of ascertaining what he would pay for votes; that was the predominant idea in my mind.

By Mr. THURMAN:

Q. Upon what terms of intimacy had you been with Mr. Pomeroy before that time?

A. I had become acquainted with Mr. Pomeroy in the fall of 1871, and then I had met him subsequently in Washington, this city, in January.

Q. In what year did you go to Kansas?

A. I went to Kansas in 1871, I think.

Q. Had you known Mr. Pomeroy before that?

A. Well, sir, I cannot say whether he did or did not.

Q. Do you recollect the motion made by him for a recess?

A. I cannot say positively whether he made it or not. He might have made it.

Q. Do you recollect whether any motion was made there by Mr. Pomeroy's friends for a recess?

A. Yes, sir; there was, and I do not know but Mr. Hutchinson might have made it. I know a motion was made for a recess, and I opposed it.

Q. Let me ask if, in reply to the speeches of the friends of Mr. Pomeroy in that convention, you did not use the following language: "That you opposed the proposition for a recess, and stated that a recess was proposed for the purpose of allowing the friends of Mr. Pomeroy to gather together and recover from the rout which you had thrown them into by your disclosures?"

A. Well, sir, I cannot say whether I made that or not.

Q. Or in substance?

A. Well, the substance of what I think I said was, that they wanted to name the candidate, they wanted to name one; the anti-Pomeroy party naming one, they wanted to name one, which they would do upon an adjournment. That was the idea I was opposing—the idea I intended to oppose in that convention.

Q. About how late in the convention was it that the motion for a recess was made?

A. I cannot tell you; it was after I had made my remarks.

Q. About what time was that?

A. Well, sir, I should say it was after 1 o'clock; it might not have been.

Q. You recollect that a motion was made for a recess until 5 o'clock —that the motion was made asking a recess until five?

A. Yes, sir.

Q. You state now that you opposed that motion?

A. I did, sir.

Q. Did you not at the time oppose any investigation into this matter prior to the vote for Senator, or any investigation in regard to your statement prior to voting for Senator?

A. All that I did was to oppose the motion to adjourn. I do not think the question came up in any other way in regard to the truthfulness of my charges except on the motion to adjourn, and that was incidentally.

Q. Was there any witness or any person who had knowledge of the money you had in your possession at the time of visiting Mr. Pomeroy, as you stated on Monday night?

A. About money I had prior to that time?

Q. Yes.

A. Yes, sir; there was.

Q. State who.

A. Mr. Horton, Mr. Simpson, Mr. Johnson——

Mr. THURMAN. Give the first names.

A. J. C. Horton, W. A. Johnson, and B. F. Simpson.

By Mr. HORTON:

Q. State how long they had seen you previous to your seeking or being admitted into Mr. Pomeroy's room, at 1 o'clock on Tuesday morning, or Monday night, whatever you call the time; how long previous to your being admitted had they seen you to make any examination of your person?

A. I should say it was somewhere not far from 7 o'clock when they

Q. Did Mr. Pomeroy know you by reputation after you went to Kansas?

A. I doubt whether he did, from my having been in another State.

Q. What State did you move from to Kansas?

A. I moved from Missouri to Kansas; I settled in Missouri after the war.

Q. After what war—the civil war?

A. After the civil war.

Q. From what State did you move to Missouri?

A. I went into the Army from Illinois, the State I was born in and lived in until I went into the Army, and after the war I left the Army and settled in Missouri.

Q. What rank did you hold in the Army?

A. The first rank I held was second lieutenant; the second rank I held was first lieutenant of the Ninety-second Illinois Volunteer Infantry; I was then commissioned captain of Company I, Fifteenth United States Colored Infantry, and afterwards commissioned as lieutenant-colonel in the same regiment.

Q. When you were mustered out of the service you were a lieutenant-colonel?

A. I was, sir.

Q. How much money did you have on your person when you went to Mr. Pomeroy's room on Monday night?

A. Forty dollars in currency, and sixty dollars in a certificate of deposit on the bank in Topeka.

Q. How do you know?

A. Because I counted it before I went to his room.

Q. Before you went there?

A. Yes, sir.

Q. How much on Tuesday afternoon?

A. I had the $2,000 in addition to what I had before.

Q. You had carried that on your person in the mean time?

A. I had carried it on my person all the time, I say, in addition to what I had before, but I might have spent a little; but, unless it was for current expenses I had it; it was all there unless some part was spent in the way of current expenses.

By Mr. VICKERS:

Q. Was Mr. Page, of whom you have spoken, a member of the legislature?

A. He was not, sir.

Q. What induced you to ask Mr. Pomeroy about the Ross letter?

A. Well, because it was exciting a great deal of public attention there at the time.

By Mr. THURMAN:

Q. Have you a copy of that Ross letter with you?

A. No; I have not, I believe.

Q. If you can get a copy we would like to see it.

Mr. SIMPSON. The original letter will be produced.

By Mr. VICKERS:

Q. Was it your intention, when you asked that of him, if he had satisfied you that he was not the author of it, to support him?

A. I cannot say that; I do not know what I would have done; I do not know whether that presented itself to me at all.

Q. Was it a matter of curiosity only that induced you to ask him?

A. I must say, I believed at the time that Mr. Pomeroy wrote that letter, but before I went into his room the question had not occurred to me to ask him; it came up in the course of the conversation.

Q. Did he at the time solicit your vote for Senator?

A. He said that he would be very glad to have my support; he asked me to shake hands with him and be friends, and for me to come over and help him. At the interview that night there was considerable said about the senatorial question.

Q. What passed between you and Mr. Pomeroy to induce him to show you the list of members who would vote for him on the first and second ballots? What inducement did you offer to him to show you the list?

A. I offered him no inducement, because he showed me that very soon after our interview commenced. That was almost the very first thing. He did it with the remark that, whether I should support him or not, it would not do him any hurt for me to know who was going to support him. In the same connection he told me that, in order to satisfy myself that he was telling the truth, I could see these gentlemen that he said would support him and satisfy myself whether the statement was true or not.

Q. That statement was voluntary on his part?

A. Yes, sir; entirely so.

Q. Did you, before taking the money, say anything to induce him to offer the money to you?

A. I think my remark there, as I have already stated, had the natural effect to induce him to believe that I would sell my vote.

Q. You then offered to him to sell your vote before he offered you money?

A. I did not regard it in that light, because I had had an invitation to have a business interview with him. It was a business interview that I had been invited to hold with Mr. Pomeroy.

Q. Did you understand that to mean that you were to sell your vote?

A. I did so understand it.

Q. What was said in reference to that before any tender of money was made; or was anything said about money on your part?

A. I made the reply, after we had had our general conversation, that I did not think there was any necessity—that was the idea. I will not undertake to give the words, except in one or two cases where I recollect distinctly; the idea was I did not see any necessity for our further continuing the interview; that I did not take the same view of the matter that he did; that I had been invited to hold a private business interview with him, and asked him if I was correct. He said I was correct, and it would not do for him to offer me money until I said I would vote for him, and then followed what I have stated.

Q. Was there any motion made in the joint convention, after you had made this exposition, to adjourn?

A. There was.

Q. Who made that motion?

A. Really, I could not tell you at this time without referring to our journal.

Q. Was it a friend of Mr. Pomeroy?

A. I think it was.

Q. What part did you take?

A. I opposed it.

Q. You opposed the adjournment?

A. I did.

Q. Was the offer made to adjourn in order that Mr. Pomeroy might have an opportunity of defending himself; was that stated in the convention?

A. The reason, I think, that was given by gentlemen who favored the postponement was, that they would have time to gather up their forces, and act or fix upon some concert of action. I do not remember whether there was any one who asked that that adjournment should be made in order to give Mr. Pomeroy an opportunity to make a statement, or explain himself. And I will state, in this connection, that we went into session at 12 o'clock, and there was a little preliminary business before I spoke. I did not know how long that would occupy, but a few moments, I supposed. I think it was two hours before we went into a ballot or vote; that is my estimate of the time. I think it was after 2 o'clock when we went into a vote.

Q. Was that two hours after you made the exposure?

A. I think it was two hours after I made the exposure.

Q. During those two hours was there an effort made to adjourn, in order that Mr. Pomeroy might be informed of your disclosure?

A. As I stated, I think the prominent idea advanced on the floor of that convention was, that they were taken by surprise by this exposure, and they were without a candidate; and I opposed upon the ground that we would not have Mr. Pomeroy dictate the candidate.

Q. You voted against adjournment?

A. I did, sir, and spoke against it.

Q. You say you and Mr. Pomeroy were of the same politics?

A. Certainly, sir.

Q. Did you approve generally of his political course?

A. May I ask a little explanation? If I understand you correctly, by the words "political course" you mean his treatment of the political questions of the day?

Q. Yes.

A. I have, sir.

Q. Had he been true to the interests of his State; did you consider it so?

A. To that I will have to reply with a double answer. I think there has never been a man who has done the injury to Kansas, since Kansas was organized, that Mr. Pomeroy has done. I think he has done more to demoralize our political——

Q. I mean in his senatorial course.

A. Well, so far as his land policy is concerned, in securing the grant for school purposes and similar purposes, those public benefits, I considered that he had done us a good service unquestionably; but when I say that he has served the State of Kansas faithfully as a Senator, I must also take into account the moral influence of the man—the influence he has had over the political operations in the State.

Q. How often had you seen and conversed with Mr. Pomeroy before you saw him at Topeka in January?

A. I could not tell you the number of times. I had seen him in Independence, our place, in the fall of 1871. I saw him again the January following in this city.

Q. Twice?

A. I saw him a number of times; I saw him a number of times when I was here.

By Mr. BUCKINGHAM:

Q. You say Mr. Pomeroy said it would not do for him to offer you

money until you had told him what you would do in reference to it? I understood you to say so.

A. The form of his reply to me, as near as I could get it, was, it would not do for him to offer me money until I said I would vote for him. If I used the expression "what I would do," it was in regard to my supporting him.

Q. What did you tell him you would do?

A. I told him I could not vote for him, or, could not say I could vote for him on Tuesday; that I must vote for Mr. Lowe on Tuesday.

Q. What led him to make this offer of money, when you said you could not do it, until you determined what you would do?

A. How?

Q. What inducement did you hold out to have him offer you this money?

A. He said, after I had told him I could not vote for him on Tuesday, "Well, say you will vote for me Wednesday," that was the day of our joint convention. I replied to him, "Well, I will say I will vote for you Wednesday, with the privilege of reconsidering it," or "the privilege of reconsideration."

Q. What did you mean by reconsidering?

A. Reconsidering my——

Q. Your promise?

A. Yes, sir.

Q. Do you believe it was in consequence of that promise that Mr. Pomeroy offered you that money?

A. I do, sir.

Q. Had you a full purpose, then, to vote for him on Wednesday?

A. I had not, sir.

Q. Yet you suppose, from what he said, that he believed you would?

A. I do.

By Mr. VICKERS:

Q. When you went to have the business transaction or business interview with Mr. Pomeroy, was it your purpose to offer to sell your vote, and afterward to expose it?

A. It was my purpose, if Mr. Pomeroy would offer me an opportunity of taking money to take it, and then I would expose him; that was my intent; that was my object.

Q. The object of your visit, then, was to induce him to offer you money for your vote, which you would take, and afterward to expose him?

A. It was rather the determination of what I would do, after I had consented or determined to visit him. I was invited, by Mr. Hargrove, to have a business interview with Mr. Pomeroy.

Q. Was he a member of the legislature?

A. No, sir; he was a friend of Mr. Pomeroy, and also a friend of mine. I understood the invitation to come from Mr. Pomeroy, and he subsequently said I was correct.

By the CHAIRMAN:

Q. You say, "he" said? You mean that Mr. Pomeroy said?

A. Yes, sir; I asked him if I understood it correctly, that he wanted a business interview with me, and he said that I was correct.

By Mr. ALCORN:

Q. I believe the point which I was going to ask you about has been made clear, perhaps. I understand you to have sought the confidence

of Mr. Pomeroy in this interview—tha he should repose confidence in you?

A. I think you have misunderstood me, then.

Q. I wish to know, because I was not here when you gave that part of your testimony.

A. I do not know that my meaning has been made clear, but I will answer it.

Q. If you have answered it, you need not repeat it.

The CHAIRMAN: He may go on and state it.

The WITNESS. I would like the committee to understand my reply to that. Mr. Pomeroy had been seeking, as I understood from his friends, interviews with me; he had manifested solicitude for me to support him for United States Senator; but it was not until Monday night, the night I went, after some consultation with some friends, that I determined, in the event that an opportunity offered, to take his money, but not to hold out any inducement to him; and I did intend when I went there that if he offered me the opportunity I should take the money; and that I would induce him to believe that I would support him.

By Mr. ALCORN:

Q. Then you went there in order to win his confidence by what you would say; you went there intending to win his confidence, to cause him to repose that confidence in you which would induce him to give you money in order that you should vote for him?

A. I intended to deceive him.

Q. You sought his confidence?

A. I simply placed myself in position to receive the confidence that he had been extending to me, or seeking to place in me.

Q. Did you not hold out the inducement to cause him to place that confidence in you——

A. I did; most emphatically, I did.

Q. —which a man dealing with a customer of this sort would be disposed to place——

A. Yes, sir.

Q. —believing he was reposing trust in a man that would not betray him?

A. Yes, sir.

Q. You state that after that you did betray him?

A. Yes, sir; I did.

By Mr. VICKERS:

Q. Had you, before you went to have a business interview with Mr. Pomeroy, made known to any one that you intended to take money from Mr. Pomeroy, and afterwards expose him, in order to defeat his election?

A. I had, sir.

The CHAIRMAN. Mr. Horton, you are now at liberty, as counsel for Mr. Pomeroy, to cross-examine the witness; and I will suggest, as the time is short, and there are a great many witnesses to be examined, that you will not waste any time.

Mr. THURMAN. I suppose that suggestion should be made to both sides?

The CHAIRMAN. Yes, that suggestion will be made to the other counsel when they come to cross-examine.

By Mr. HORTON:

Q. When did you first make public a statement in regard to this transaction?

A. It was in Topeka, the 29th day of January.

Q. At what place?

A. In the joint convention.

Q. How many hours before the time of voting for Senator was that statement made, or before the time set by law for election of United States Senator?

A. The time set by law was 12 o'clock.

Q. How soon before that hour was this statement made, or how near that hour?

A. It was made a little after that hour.

By Mr. THURMAN:

Q. Let me see if I get this matter right. Do you mean to say that was the first time you told any person?

A. No, sir; but the first time publicly.

By Mr. HORTON:

Q. I asked for a public statement.

A. Yes, sir.

By Mr. THURMAN:

Q. You do not mean that was the first time you told any individual?

A. No, sir.

By Mr. HORTON:

Q. At what hour was that?

A. It was after 12 o'clock on Wednesday when I made my statement

By Mr. THURMAN:

Q. In the joint convention?

A. Yes, sir.

By Mr. HORTON:

Q. At the close of your address in the joint convention did you not in substance use this language: "As to the truth of what I have stated, before the Almighty Ruler of the Universe, I solemnly declare and affirm that every word I have spoken is God's truth and nothing but the truth"?

A. I said something in substance like that; that is what I intended to say.

Q. Do you now state that every word you uttered in that address was the truth?

A. Sir, it is utterly impossible for me to tell what I did say in that address. The statement that I made regarding my transactions with Mr. Pomeroy, I made then deliberately, and with the full comprehension of what I was saying; but, in the closing remarks of my speech, I was under a great deal of excitement, and I might have used extravagant expressions that, perhaps, conveyed more than my meaning, or more than I purposed to put into them.

Q. Was your closing affirmation or statement true in that address?

A. It was true of what I believe that I said, or intended to say.

Q. Was it true of what you did say?

A. I cannot tell you whether it was or not.

Q. Do you know Judge Nathan Price?

A. I do, sir.

Q. The senator from Doniphan County, in Kansas?

A. I do, sir.

Q. Was he considered by you friendly or unfriendly to Mr. Pomeroy's interests?

A. I always regarded him as friendly to Mr. Pomeroy's interests.

Q. Immediately, or soon after your address had been delivered, let me ask you if he did not use this language: "That Mr. Pomeroy had no opportunity of defense, and he desired in his behalf, as in that of the poorest and most obscure in the land, fair play;" and especially asked an adjournment?

A. I really could not tell you whether he said that or not; he might have said it.

Q. Do you recollect his addressing the convention soon after yourself?

A. I do, sir.

Q. You say that that language was not used by him?

A. I do not say it was not used by him; it might, or might not, have been used by him.

Q. State now to this committee your recollection whether, in the language Mr. Price used, he did not desire to have time for investigating these charges before voting for Senator?

A. I cannot really say as to that. The prominent idea with me was the charge that had been made upon me in joint convention.

Q. What charge was it?

A. He said that——

By Mr. THURMAN:

Q. That who had made?

A. That Mr. Price had made; he had used some violent language toward me.

By Mr. HORTON:

Q. State it.

A. I do not know the words, but the idea was that I had exposed my own villainy in exposing Mr. Pomeroy's. He used some very cutting remarks I know at the time that absorbed my attention; as to what he did say——

Q. Did he not use this language: "he would not say that your action was by a preconcerted arrangement, but there was about the whole of it, and the manner of its being sprung upon the body, a dramatic aspect that looked very suspicious, and he desired, before voting, time for investigation;" in substance that language?

A. I think that he did say that. I think, since you have read it, that it brings it to my memory that words to that effect were used.

Q. Do you know Clinton C. Hutchinson, of Greenwood County, a member of the legislature?

A. Yes, sir; I have seen him several times.

Q. Did you regard him as friendly or unfriendly to Mr. Pomeroy as a candidate for the Senate?

A. I regarded him as friendly to Mr. Pomeroy.

Q. After Senator Price had taken his seat, let me ask you if Mr. C. C. Hutchinson in that convention did not rise and use the following language: "that he moved that the convention take a recess until 5 o'clock, that the members of the convention might have an opportunity of investigating the charges for themselves, made against Mr. Pomeroy, and to make up their minds how to vote, without such a pressure upon them?"

A. Well, sir, I cannot say whether he did or did not.

Q. Do you recollect the motion made by him for a recess?

A. I cannot say positively whether he made it or not. He might have made it.

Q. Do you recollect whether any motion was made there by Mr. Pomeroy's friends for a recess?

A. Yes, sir; there was, and I do not know but Mr. Hutchinson might have made it. I know a motion was made for a recess, and I opposed it.

Q. Let me ask if, in reply to the speeches of the friends of Mr. Pomeroy in that convention, you did not use the following language: "That you opposed the proposition for a recess, and stated that a recess was proposed for the purpose of allowing the friends of Mr. Pomeroy to gather together and recover from the rout which you had thrown them into by your disclosures?"

A. Well, sir, I cannot say whether I made that or not.

Q. Or in substance?

A. Well, the substance of what I think I said was, that they wanted to name the candidate, they wanted to name one; the anti-Pomeroy party naming one, they wanted to name one, which they would do upon an adjournment. That was the idea I was opposing—the idea I intended to oppose in that convention.

Q. About how late in the convention was it that the motion for a recess was made?

A. I cannot tell you; it was after I had made my remarks.

Q. About what time was that?

A. Well, sir, I should say it was after 1 o'clock; it might not have been.

Q. You recollect that a motion was made for a recess until 5 o'clock —that the motion was made asking a recess until five?

A. Yes, sir.

Q. You state now that you opposed that motion?

A. I did, sir.

Q. Did you not at the time oppose any investigation into this matter prior to the vote for Senator, or any investigation in regard to your statement prior to voting for Senator?

A. All that I did was to oppose the motion to adjourn. I do not think the question came up in any other way in regard to the truthfulness of my charges except on the motion to adjourn, and that was incidentally.

Q. Was there any witness or any person who had knowledge of the money you had in your possession at the time of visiting Mr. Pomeroy, as you stated on Monday night?

A. About money I had prior to that time?

Q. Yes.

A. Yes, sir; there was.

Q. State who.

A. Mr. Horton, Mr. Simpson, Mr. Johnson——

Mr. THURMAN. Give the first names.

A. J. C. Horton, W. A. Johnson, and B. F. Simpson.

By Mr. HORTON:

Q. State how long they had seen you previous to your seeking or being admitted into Mr. Pomeroy's room, at 1 o'clock on Tuesday morning, or Monday night, whatever you call the time; how long previous to your being admitted had they seen you to make any examination of your person?

A. I should say it was somewhere not far from 7 o'clock when they

had examined me to see how much money I had. I think that it was between half past 8 and half past 10 when I went first to Mr. Pomeroy's room.

Q. At 1 o'clock you went to Mr. Pomeroy's room, when you had so much conversation; now how many hours previous to that time was it that they had examined you?

A. According to the best of my judgment it was from five to six hours.

Q. State how many rooms you had visited that night after being seen or examined by them?

A. I cannot tell you how many.

Q. More than one?

A. Yes, sir; I had.

Q. How many? State generally.

A. I remember of having visited three rooms.

Q. Three rooms?

A. I cannot say but that I visited more that night.

Q. How many persons had you seen since their examination of your person?

A. Well, I should judge that I had seen between one and two hundred.

Q. Now state to the committee how you can say that they knew what money you had upon your person when you went into Mr. Pomeroy's room at 1 o'clock, if they had not seen or examined you since 7 o'clock?

A. I cannot state how I know it any further than they examined me at the time I stated; they knew at the time they examined my person.

Q. The question I asked you was if any person knew at the time of your going into the room, at 1 o'clock, what moneys you had upon your person?

A. I have given all the information I have about that.

Q. I repeat the question. Did any person, at 1 o'clock, when you entered Mr. Pomeroy's room, know what money you had?

By the CHAIRMAN:

Q. I understand the witness to say that at 7 o'clock he was searched.

A. Yes, sir.

Q. Between that and 1 o'clock you saw one or two hundred persons?

A. Yes, sir.

By Mr. HORTON:

Q. Were you out of the hotel during that time?

A. Yes, sir.

Q. Were you out in the city?

A. Yes, sir; I went down in the city—down to Turner's Hotel.

Q. Then it is not true that you were searched just previous to entering Mr. Pomeroy's room, or that anybody followed you for that purpose?

A. No, sir; I have not intended to say that. I do not know whether my words conveyed that meaning or not, but I was not examined after 7 o'clock that night.

Q. You do not pretend to say that any person, then, knew what money you had on your person except yourself?

A. No, sir; I cannot say—not absolutely to know.

Q. Was there any opportunity given before going there to search you?

A. Not after 7 o'clock. No one searched my person after 7 o'clock.

Q. And you saw two hundred people in the mean time?

A. Between one or two hundred persons.

Q. Were you alone with these gentlemen during that time?

A. I do not remember.

Q. Did you stay in the company of these three men all that time?

A. No, sir.

Q. Or of either one of them?

A. No, sir; I did not.

Q. Was not that search made in pursuance of some contemplated exposure by yourself?

A. Yes, sir.

Q. Now, tell this committee why that search was not made just previous to your entering that room.

A. I do not know whether it occurred to us again at the time or not. The time I communicated the proposition I had received to those gentlemen was the time they made the examination of my person, to see what money I had on my person.

Q. After you left the room of Mr. Pomeroy on Monday night or Tuesday morning, was that money examined or counted by anybody but yourself?

A. That night?

Q. Yes.

Mr. THURMAN. You mean after the return from Mr. Pomeroy's room?

Mr. HORTON. Yes, sir.

Q. After your return from Mr. Pomeroy's room, was that money counted by anybody or not?

A. It was nearly three o'clock when I left. That morning it was counted.

Q. Before you retired to sleep that night was it counted?

A. No, sir; I simply showed it to Mr. Simpson in my pocket.

Q. Did you show it sufficiently to him for him to tell the amount?

A. No, sir.

Q. Where did you sleep after visiting Mr. Pomeroy's room that morning?

A. All the sleep I got was on the counter in the Tefft House?

Q. How long did you rest there?

A. I cannot tell you; it might have been one or two hours; I cannot tell you the time exactly, because I think it was somewhere not far from six o'clock, perhaps between half-past five and seven o'clock, when I got up. It was after four o'clock when I laid down.

Q. Has any person knowledge of what amount of money you brought out of Mr. Pomeroy's room except yourself?

A. Only as I have communicated it to them; and Mr. Pomeroy.

Q. Only as you have made the statement?

A. Yes, sir.

Q. In the speech which you delivered in that joint convention, did you not state, in substance, that you were searched and followed to Mr. Pomeroy's room on Monday night, and that you were searched and taken possession of when you left that room, and the money found upon your person?

A. I do not know that I did. I did not intend to state that I was followed to the room, because I did not learn that I was followed to the room until after that, when a gentleman told me that he saw me when I entered Mr. Pomeroy's room; but I did not know it at the time I made the speech, and I would not have said it unless I knew it.

Q. Did you not intend to convey to that joint convention in that address, the idea that other persons than yourself would corroborate you as to your going into that room without any money, except the small

amount that you have mentioned, and your returning and meeting them, and their ascertaining the large sum upon your person?

A. Only as I have stated it here. I never meant to convey anything further than the facts in the case would convey; not for one moment.

Q. Did you not state in that speech that you were searched before going in?

A. I do not think I did, sir.

Q. The only search that was made was this one at 7 o'clock?

A. Yes, sir; about that time.

Q. And you saw one or two hundred persons after that?

A. Between one and two hundred, I said; because I was at the caucus that night, which was largely attended, and I saw a great many people around the Tefft House that night.

Q. Did you make any other statement in public or in a speech, excepting in this joint convention?

A. I did.

Q. Where was that?

A. At Independence.

Q. At what time?

A. On the Saturday night following the joint convention.

Q. Who is the mayor of Independence?

A. James De Long.

Q. Was he present at that speech?

A. Not that I saw; he might have been.

Q. He is mayor of that town?

A. Yes, sir.

Q. Do you know Mr. Zeigler there?

A. Yes, sir.

Q. Was he present?

A. I did not see him.

Q. How many were present at that meeting?

A. I should say, judging as near as I could estimate, about three hundred people.

Q. Then you could not tell all the names of persons present?

A. O, no; I could not begin to tell.

Q. Did you give your evidence prior to coming here, and subsequently to your speech at Independence, before any committee?

A. I did.

Q. Before what committee, and where?

A. Before an investigating committee appointed by the legislature of the State of Kansas, at Topeka.

Q. In your evidence before the investigating committee, did you not use this language, "I was at one time a personal political friend of Mr. Pomeroy?"

A. I did. At least, I used very nearly that language. There might have been a word or two different.

Q. Do you say that now?

A. That I was a personal and political friend?

Q. A personal political friend of Mr. Pomeroy.

A. I mean it as I meant it then. I do not mean that I was intimately his friend, or in the sense of personal intimacy; but I was personally his political friend.

By Mr. THURMAN:

Q. What do you mean?

A. Not only that I accorded with him in my political views, holding

the same political ideas that he held, that we were political friends in a general sense, being republicans, but that I also believed him to be a worthy man, and deserving of the support of the party.

By Mr. HORTON:

Q. Did you not, in a conversation with Mr. Maxson, of Independence, a short time previous to the senatorial election at Topeka, in Kansas, state that the means resorted to in order to defeat Mr. Pomeroy were more degrading than any means that Mr. Pomeroy could possibly have used to secure his election, or words to that effect?

A. I do not think that I did. I want to say, in explanation, that I spoke of the publication of certain papers of a scandalous nature as being very much to be deprecated, and that I thought it was entirely out of place and out of character that such papers as that should be brought into a contest of that character. That was the idea. I spoke of it in deprecation.

Q. Had you ever any correspondence with Mr. Pomeroy prior to this senatorial election?

A. I had.

Q. You had corresponded with him?

A. I had.

Q. What is your business; I mean previous to your being a senator?

A. I am a lawyer.

Q. What other business do you transact?

A. I have been engaged in loaning and in the collecting business.

Q. Have you been loaning money to any general extent—made a business of it?

A. Well, sir, to quite a considerable extent.

Q. To about what extent? I ask you generally.

A. I cannot tell you exactly. I presume I have handled since I have been in Independence somewhere from thirty-five to forty-five thousand dollars.

Q. Loaning that money to settlers and people residing in that community?

A. Yes, sir; to the people there.

Q. At what rate of interest?

A. I have been loaning——

Mr. THURMAN. Perhaps that is going too far.

Mr. HORTON. It is not asked to affect his standing.

Mr. THURMAN. I hardly think it is a proper question in this controversy, or proper to impeach his veracity.

By Mr. HORTON:

Q. Do you know John H. or W. Holmes, of Atchison?

A. I do not know him by that name. If I know him it is only by his countenance.

Q. Let me ask you if you did not state, in the presence of John H. Holmes, of Atchison City, Kansas, in the city of Topeka, the day after the senatorial election, that your plot had been a scheme of six months' work, and that you had resolved to make it succeed, cost what it might, and that you had sacrificed yourself in so doing?

A. I emphatically say I did not.

Q. Or words to that effect?

A. I did not.

Q. Or to any other person in the city of Topeka?

A. Nor to any other person.

Q. During January?

A. I say most emphatically I did not.

Q. Did you, in your speech before the joint convention, state, in substance, as follows: "I know of several members who have money in their pockets now for their votes. I will not state now who they are, but will develop the facts at the proper time?"

A. I wish you would read the forepart of that again, if you please.

Q. Did you not state in your speech in the joint convention, just prior to the senatorial election at Topeka, Kansas, "I know of several members of the legislature who have money in their pockets now for their votes. I will not state now who they are, but will develop the facts at the proper time?"

A. Well, sir, I cannot state what I did say in regard to that. I was examined upon that in my former examination, and I do not know whether it will be proper for me to say it or not; but some say I said it, others that I did not. As I said in my answer to one of your questions, what I said in my closing remarks, I cannot now say, because I was intensely excited, and I might have used extravagant expressions. I know the idea I had in my mind, if you desire it.

Q. Did not those extravagant expressions have a tendency to excite and prejudice the convention against Mr. Pomeroy?

A. I do not doubt but they might have done so.

Q. After you had used those extravagant expressions to excite and prejudice that convention, did you not oppose any recess, for the purpose of preventing the prejudice or excitement from being passed over?

A. My object in opposing that recess was to prevent them from dictating the name of some other man in Mr. Pomeroy's interest; that was the only object I had in view in opposing that resolution. As for shrinking from investigation, I never shrank from it. I have invited it fully.

Q. Did you not state in that address that Mr. Pomeroy had given you the names of other parties that had his money?

A. I make the same reply to that which I did to the other.

Q. You do not know?

A. I cannot tell whether I did or not. I know what I intended to say, and what my meaning was in my mind.

Q. Do you state now that Mr. Pomeroy ever told you the name of a a person that had received money from him from voting for him?

A. No, sir; I do not.

Q. I understand that you do not state that he told you so?

A. Yes, sir; I do not state so, because he did not tell me the name of any man he had paid money to. The nearest approach to it was, that he had paid the expenses of some members of the convention; their campaign expenses.

By Mr. THURMAN:

Q. Members of the convention?

A. Of the legislature, I should say.

By Mr. HORTON:

Q. Did he not tell you on Monday night, the 27th, that he had not bought any votes?

A. Yes, sir, he did.

Q. Was not your interview on Monday night about to be terminated without any money being stated, or any money being talked about, until you further pressed the question about some consideration as to your vote?

A. I cannot tell whether it would have terminated then or not. My opinion is—and it is entirely matter of opinion—that Mr. Pomeroy, whether I had made that remark or not, would have made me an offer of money for my vote.

Q. I am asking what you did?

A. Then I misunderstood your question, Judge Horton.

Q. Was not the interview about to be terminated after you said you saw no further use of your remaining there?

A. Isn't that a matter of opinion as to what Mr. Pomeroy intended? I used words indicating that I intended to terminate it; but Mr. Pomeroy had not at that time indicated anything about terminating the interview, and, as I said before, I believe he would have offered me money whether I had made the remark or not. That is a mere matter of opinion.

Q. Did he make you any admission or state to you of any money being paid to any one?

A. He said he had paid the expenses of some members of the legislature, but that he had not bought their votes.

Q. Did he give you the name of any party?

A. None of the parties whose expenses he had paid. He told me who were acting as ——, but that would not be in reply to your question.

Q. Did you consult with any parties before visiting Mr. Pomeroy in regard to seeking money from him and then exposing him in the convention?

A. I did, sir.

Q. Give the names of those parties.

A. I consulted upon Monday night, after I had received the invitation to meet him in a business interview—to hold a business interview with Mr. Pomeroy—with Mr. B. F. Simpson, Mr. J. C. Horton, and Mr. W. A. Johnson, a senator in the legislature.

Q. Was the plan then formed of your seeking Mr. Pomeroy and obtaining his confidence and getting money from him, and then making a disclosure of it in the joint convention, thus defeating him?

A. To part of that I can answer "yes," to part I can answer "no."

Q. Just state what was done.

A. When I went, after I had received the invitation, to visit Mr. Pomeroy, I told ———

By Mr. THURMAN:

Q. Let me interrupt for a date. When did you receive the invitation to meet Mr. Pomeroy?

A. On Monday evening.

Q. From whom?

A. From Mr. Asa Hairgrove.

Q. Where was it?

A. I think it was either in the hall or in the bar-room.

Q. Of what?

A. Of the Tefft House.

Q. When you received that information?

A. Yes, sir.

Q. From Mr. Hairgrove?

A. Yes, sir.

Q. Go on, and state what took place?

A. After I had received the invitation, I told Mr. Simpson, or requested that he would have Mr. Horton, or Mr. Johnson, go to his room as soon as he could, or very soon; that I had something to communicate to them. We went in there, and locked the door, and then I communi-

cated to them this invitation I had received. We all placed the same interpretation upon it, in connection with what other indications we had, that we believed that Mr. Pomeroy was using money and buying votes; we all placed that interpretation upon it—that he was going to offer me money that night. The question I consulted them upon was whether I should decide to take it, and then expose it in the convention, or not.

By Mr. HORTON:

Q. Now, the question is whether that decision was made after consulting these men, that you should take the money and expose it in the convention?

A. Well, yes; I presume I had perhaps formed the matter in my own mind substantially, because we had talked about the same matter on Saturday night, Mr. Simpson and I had, but not reaching a conclusion.

Q. When was a conclusion reached with all those gentlemen?

A. That was Monday night.

By Mr. THURMAN:

Q. Who were present in that room when you were locked in?

A. B. F. Simpson, William A. Johnson, J. C. Horton, and myself.

Q. Four persons?

A. Yes, sir.

By Mr. HORTON:

Q. The conclusion was then reached and decided upon that you should obtain money from Mr. Pomeroy and promise him your vote, and then expose him in the convention. Is that correct?

A. That is not the conclusion exactly, but that if Mr. Pomeroy gave me an opportunity to take the money, or offered it, I should take it and expose it. It was all predicated on the invitation I had received.

By the CHAIRMAN:

Q. This invitation was on Monday?

A. Yes, sir.

Q. I understood you to say you had talked over this same plan on Saturday?

A. We had. I say in explanation of that that Mr. Hairgrove had invited me, before I had consulted Mr. Simpson, to a private interview on Sunday, and we thought (it was inferential) Saturday night, that Mr. Pomeroy was buying votes.

By Mr. THURMAN:

Q. Hairgrove invited you to a private interview on Sunday?

A. Yes, sir.

Q. Was the notification on Sunday?

A. No, sir; Saturday, to have the interview on Sunday. From that we were led to believe that it would partake of the nature of a business interview, but that was inferential.

By Mr. HORTON:

Q. Did Mr. Pomeroy come to your room, or did you seek his room?

A. I went to his room.

Q. Then you sought him, and he did not seek you. You sought his room?

A. I went to his room. I certainly think he sought me; I know he first sought me.

Q. You say Mr. Hairgrove used the words "business interview?"

A. Yes, sir.

Q. Are you as confident about that expression as you are in relation to any other statements you have made?

A. I am confident in regard to that; in fact, I know he used that word, or its equivalent.

Q. Have you not stated that he used that word?

A. That is my belief, and that is my answer—as near as it is possible for a man to swear anything.

Q. Then, it was in pursuance of the common counsel, or common agreement of these parties that you were to go to Mr. Pomeroy's room and to make the exposure?

A. Yes, sir; because I should not have gone unless they had concurred with me, as to the wisdom of the course.

Q. You say that Mr. Pomeroy said to you that he could give you no money, or offer you none, until you had first said you would vote for him?

A. Yes, sir.

Q. And you stated that you could not do it on Tuesday?

A. I said I could not say that I would vote for him on Tuesday.

Q. What statement did you make about the vote?

A. I will repeat it as nearly as I can, in the precise words used: Mr. Pomeroy wanted me to vote for him on Tuesday. I said to him that I could not say that I would vote for him on Tuesday; that I would have to vote for Mr. Lowe on that day. He said, "Well, say you will vote for me on Wednesday;" and then I said, "I will say that I will vote for you on Wednesday, with the privilege of reconsideration." That is, as near as I can recollect, the words upon that point.

Q. What are your relations with Mr. Hairgrove?

A. They have been those of a friend.

Q. Does he reside in your town?

A. Yes, sir; in my town.

Q. What relations exist between you and Mr. Page?

A. They are less intimate, but of a pleasant character. We are neighbors.

Q. Where does he reside?

A. In Independence.

Q. How did you reach the room of Mr. Pomeroy on the night of the 27th—Monday night?

A. The first time, my remembrance is, I passed through his first room to the room in the rear.

Q. At the one o'clock meeting?

A. I went through the parlor, my recollection is.

Q. Who was there?

A. I do not remember that any one was. I have been told since that a gentleman was sleeping on the lounge.

Q. Do you know who was the person?

A. All I know is what the gentleman told me himself.

Q. Do you know of your personal knowledge?

A. No, sir; I could not state that any one was there from my own personal knowledge. A gentleman has told me since that he was there.

Q. Explain the situation of the two rooms occupied by Mr. Pomeroy

A. The front room opened off of the hall, the second hall upon the second floor. It is in the south end of the building, on the south side: and the room I would designate as his private room was immediately in rear of that, with a communicating door.

Q. The room in which you visited him communicated with it with a door open?

A. Yes, sir.

Q. Do you know who was in that room?

A. No, sir; I cannot tell.

Q. Do you know how that door fastened, or whether it fastened at all?

A. I could not tell.

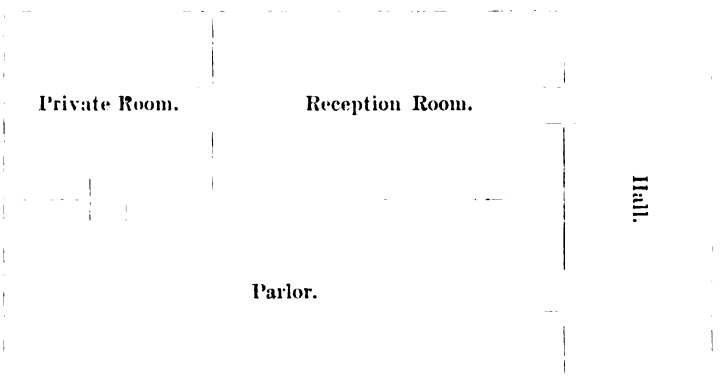
By Mr. THURMAN:

Q. Do I understand that the door of the room where you received the money was between a reception room of his and the parlor?

A. No, sir; it was this way; here is the room——

Q. Just make a draught of it on a piece of paper.

[The witness made the following sketch:]



By Mr. HORTON:

Q. Do you know who was in the reception room?

A. No, sir; I cannot tell you.

Q. Do you know whether there were any beds in that reception room or not?

A. Not positively, but my impression is that there was a bed.

Q. Were there not two beds in the reception room?

A. I cannot answer whether there were or not, because I did not notice particularly.

Q. Was there not a bed in the private room?

A. Yes, sir; there was a bed in one corner.

Q. Who is on the lounge in the parlor?

A. He is the editor of the Fort Scott Daily Monitor.

Q. Mr. Tiernan?

A. Yes, sir; he told me.

Q. Who are the persons other than those you have named that you divulged it to previous to the convention?

A. Captain George R. Peck and George C. Crowther.

Q. Were any of those parties sworn, or did you take any oath not to divulge these matters until the meeting of the joint convention?

A. No, sir; only a pledge.

Q. Of secrecy between how many? Give the names.

A. All that I know of having any knowledge of it were the three gentlemen I have already named, W. A. Johnson, G. C. Horton, Major B. F. Simpson, also Captain George W. Peck, and George C. Crowther, and myself. That makes six.

Q. What pledge was made? You spoke about a pledge.

A. We promised secrecy; that we would not divulge the matter until we had exposed it.

Q. Did Mr. Crowther promise that?

A. He promised it, with the exception that he would indicate to the lieutenant-governor, when he went on the floor, that when I got up to speak to let me speak.

Q. What position does he occupy—the lieutenant-governor?

A. He is lieutenant-governor of the State, and presiding officer of the joint convention.

Q. Did not Mr. Crowther state in pursuance of your plan, immediately after your speech in the convention, that $6,200 had been deposited with him as conscience-money?

A. I cannot state that he did.

Q. Did he not tell that to you?

A. No, sir.

Q. Did you not hear that public report?

A. I heard it, and went and asked Mr. Crowther whether it was true.

Q. What did he tell you?

A. He told me it was not true to his knowledge.

Q. Do you not know he circulated that report under your advice and with the knowledge of the parties acting with you, in order to give strength and character to the statement you had made in joint convention?

A. I know he did not.

Q. You know he did not circulate that report?

A. Not with my knowledge, consent, or approval.

Q. You say he did not circulate it?

A. I do not know whether he did or not, but the first thing I did after hearing it was to ask him about it, and he told me it was not true; and as to the other, I state emphatically that it was not with my knowledge, consent, or approval.

By the CHAIRMAN:

Q. When was this pledge of secrecy given?

A. It was Monday night, when we talked that matter over, Mr. Simpson, Mr. Horton, Mr. Johnson, and myself; it was agreed on what we would do.

Q. That is all?

A. That we would not let the matter get to the public; that was all.

By Mr. HORTON:

Q. What is Mr. Horton's business?

A. He is in some kind of railroad office.

Q. An express-agent?

A. I cannot answer that question, Judge Horton.

Q. Is he not an agent of an express company?

A. He may be. He has a ticket-office there, and I think he is engaged in some kind of money business, but I cannot tell the nature of his business more than that.

By Mr. SIMPSON:

Q. State to the committee who this T. B. Eldridge is, and what public position he occupied in Kansas, if any, to whom you referred in your examination.

A. He is a member of the house of representatives of the legislature of Kansas.

Q. From what county?
A. Montgomery County.
Q. The same county you represent in the senate?
A. One of the counties; yes, sir.
Q. State whether or not Mr. Eldridge was a supporter of Mr. Pomeroy in this senatorial contest.
A. I so regarded him after he came to Topeka.
Q. When the suggestion was first made to you that if Mr. Pomeroy offered you any money for your vote you would take that money and expose him, by whom was it made?
A. I could not answer that definitely. The first time I ever considered it seriously was on the Saturday night previous—the first time I ever gave it serious thought. I know I had heard it suggested and spoken of there. I think, among others, that Mr. Horton had suggested it; but never up to that time had I given it serious thought, for the reason that I had not, up to that time, thought Mr. Pomeroy was using money in buying votes.
Q. State when and under what circumstances the discussion on the subject was had on Saturday night.
A. It was under these circumstances: After I had seen indications that led me to believe that money was being used, I went to B. F. Simpson's room, and told him in these words, as near as I can recollect: "Mr. Simpson, we have got to fight greenbacks from now on." He asked me my reasons. I gave him my reasons. Then he said, "York, you are right; we have got to fight greenbacks from this time forward," or words to that effect. That was the first time I had ever seriously considered the idea, and it was in connection with a notification from Mr. Hairgrove to have an interview with him on Sunday, the next day.

By Mr. THURMAN:

Q. That was Saturday?
A. That was Saturday night. We came to no conclusion that night as to whether, even if we should have an opportunity, I should take the money.

By Mr. SIMPSON:

Q. State who was present at that interview, or discussion.
A. B. F. Simpson and myself.
Q. State when you next had a conversation on that subject, and with whom; and give an outline of that conversation.
A. I think the next time I had any conversation with any one was on Monday night, with B. F. Simpson, W. A. Johnson, and J. C. Horton, after having received my invitation to visit Mr. Pomeroy. It was the conclusion of those gentlemen there, at that time, that there was no other way of defeating Mr. Pomeroy, and that he would be elected. We had not thought that we should resort to that expedient until we believed that he was using money to buy votes.
Q. State now the exact agreement and understanding among those parties on Monday evening. State that agreement between those parties to the fullest extent.
A. The substance of the agreement was that if Mr. Pomeroy should offer me money at that interview I should take it, and should expose him upon the floor of the joint convention upon Wednesday; that I should keep quiet during the intermediate time, and that that money, I think it was agreed at that time, should be appropriated to the school-fund, if any money was received. That was after receiving my invitation to have the business interview with him Monday night.

By Mr. THURMAN:

Q. That conversation was Monday night?

A. Yes, sir; or interview.

Q. Was the question discussed whether you should make the disclosure in the senate, of which you were a member?

A. On Monday?

Q. You say it was resolved that you should make the disclosure on Wednesday, the day of the joint convention under the law?

A. Yes, sir.

Q. But it should not be before Wednesday?

A. No, sir.

Q. This was Monday, and you were to see him that night?

A. Yes, sir.

Q. And in case you received the money that night, was it discussed between you whether it would be proper to make the disclosure when the senate came to vote on Tuesday, or that you should refrain from making the disclosure until the joint convention met on Wednesday?

A. My remembrance is that the decision was that night that I should make the disclosure in joint convention.

Q. So you have stated the decision; but was the question discussed whether it was more advisable to make the disclosure on Tuesday, in the senate, or that you should refrain from making the disclosure in the senate, and make it in the joint convention on Wednesday? Was the advisability of the one or the other course considered by you in that meeting?

A. I am at a loss to say whether it was or not.

Q. Was any suggestion made as to whether it would be advisable or not to make the disclosure in the senate when they voted, on Tuesday?

A. I cannot say, sir, whether that was discussed between us that night or not.

By Mr. SIMPSON:

Q. You can state whether or not there was any agreement or understanding to communicate this fact to any other person upon the part of those who were with you on Monday night.

A. As to whether we would communicate it?

Q. Yes, sir; as to whether that fact was to be communicated to any other person?

A. No; there was no arrangement or agreement made that it should be communicated to any other person.

Q. Was there anything said, or any understanding had, or suggestion made that the officers of either house of the legislature should be informed of the project?

A. I think not, sir; if it was it has escaped my memory. The only time I remember that suggestion was when Mr. Crowther made the suggestion, Wednesday morning, that he should indicate to the lieutenant-governor that if I arose to speak I should have the floor.

By the CHAIRMAN:

Q. I understand you to say he excepted communicating it to the lieutenant-governor when the pledge was made to keep it still?

A. Yes, sir; but he told me, when I went over, fifteen minutes before 12 that day, that he had not spoken to the lieutenant-governor; but I have learned since that after he had got into the joint convention he did whisper him that, when York got up to speak, to extend to him the privilege of the floor; but he made no further explanation to him.

By Mr. THURMAN:

Q. Was the lieutenant-governor friendly or unfriendly to the election of Mr. Pomeroy?

A. He was very much opposed to the election of Mr. Pomeroy. I do not know as I apprehended the tenor of the question in regard to that pledge, or in regard to its scope, and I do not know as my meaning is comprehended.

By Mr. SIMPSON:

Q. Let me ask you, was there any formal pledge of secrecy?

A. There was not; only that we would keep the matter quiet; no formal pledge was given.

By the CHAIRMAN:

Q. I adopted the word "pledge" because the question was asked whether there was an "oath," and you exchanged it, saying there was a pledge.

A. It was not a formal pledge.

By Mr. SIMPSON:

Q. A common understanding?

A. Yes, sir; an understanding not to let the matter get out or become public, but to keep it quiet.

Q. How many counties compose your senatorial district?

A. Two counties.

Q. State approximately the voting population of those two counties?

A. I should say a little over five thousand.

Q. State whether or not you were committed for or against Mr. Pomeroy for United States Senator in your canvass prior to the election?

A. I was unequivocally committed against him.

Q. State the position you occupied from the time the legislature assembled, or the time you went there in attendance on the legislature, until the time of the invitation to the interview with Mr. Pomeroy?

A. I was opposed to Mr. Pomeroy's re-election, and when I went to Topeka I at once identified myself with an organization known as the anti-Pomeroy caucus. I was the secretary of that caucus. That was very soon after the legislature convened; perhaps the day before.

Q. State if you made an address in that caucus in opposition to the re-election of Mr. Pomeroy?

A. I did, sir. I pledged myself there to vote against him and oppose his re-election.

Q. State if these caucuses were open or secret meetings?

A. They were intended to be secret, but I think their proceedings were all known within an hour after the adjournment to a great many. They were not held with open doors on our part.

Q. There was not a general admission?

A. Not a general admission, but upon two occasions I think the friends of the movement outside of the legislature were admitted.

Q. State whether the proceedings of those caucuses or meetings were published at any time in the daily papers?

A. They were published on several occasions. I do not remember how many.

Q. Were the names of the gentlemen who addressed the caucus in opposition to Mr. Pomeroy published?

A. Yes, sir; I recollect that on one occasion the names of those who addressed the caucus were published.

Q. Was your name included in the list so published?

A. It was.

Q. State, Mr. York, the motives that you had in accepting from Mr. Pomeroy that money, and in making the public declaration you did in regard to it?

A. I had but one motive; that was to defeat him for United States Senator, and my reason for that was I believed it was not for the interest of our State that he should be elected. I believed that he was using money corruptly. I believed it firmly, and I believe it now.

Q. You can state now in reference to the money delivered by Mr. Pomeroy to you, what did you do with that particular money?

A. The final disposition of it?

Q. Yes, sir.

A. I passed it into the hands of the secretary of the senate, George C. Crowther, and it was afterward, under a resolution, of the joint convention, sealed up in the original bank packages in which I received it from Mr. Pomeroy, (they had never been broken,) and were sealed up under the resolution of the joint convention; and I have not seen that money since.

By Mr. THURMAN:

Q. You handed it over to him in the joint convention?

A. I did; the $7,000.

By Mr. SIMPSON:

Q. In what number of packages?

A. Six packages were unbroken; one thousand was in hundred and fifty dollar bills; each package had a narrow slip of paper, perhaps three-quarters of an inch in diameter, and upon six were the stamped or printed figures [1,000] one thousand. I think upon the six; I believe that the letter "B" was upon all these bank packages, and I think the figure "one" and a straight line and then the figures 13 [1.13.] That was on a part of them. I cannot say as to all of them.

By Mr. VICKERS:

Q. Mr. York, in the interview on Monday night between you and Mr. Horton, Mr. Simpson, and Mr. Johnson, was it the understanding that if you obtained money from Mr. Pomeroy you were to expose it in the convention, and if any motion was made to adjourn or take a recess that you were to oppose it? Was that a part of your understanding?

A. I do not think that was alluded to at all.

By Mr. THURMAN:

Q. That is, you mean opposing an adjournment?

A. Yes, sir: I do not think that was discussed in our meeting that night at all.

By Mr. BUCKINGHAM:

Q. You stated, that on Saturday night you had seen that which led you to think that money had been used. State what you saw that led you to that conclusion.

A. There were three circumstances that particularly induced that belief in my mind. One was that I thought I discovered that Mr. Pomeroy's headquarters that night were comparatively deserted, whereas before they had been thronged with his friends. Another circumstance was that Mr. John M. Price, I think, or John T. Price—Mr. Price, of Atchison—told me that a brother of Mr. Eldridge had just left his room and informed him, Price, that Major T. B. Eldridge, a member of the

legislature, and Mr. Kelloch, another member of the legislature, had each a $1,000 draft; and Mr. Price said that they were offering, or said they had been furnished them to bet on the election—on Mr. Pomeroy's election. The third circumstance that excited my suspicion was that there was a young man, a member of the legislature, by the name of Billings, whom I saw about 11 o'clock that night—I think it was about that time, Saturday night, any way quite late in the evening—in the bar-room of the Tefft House, speaking very emphatically in favor of Mr. Pomeroy, and declaring that he was going to vote for him, and he repeated several times that Mr. Pomeroy's money had not bought him.

Q. Did you then think that money was being used by Mr. Pomeroy?

A. My interpretation of the absence of his friends from his rooms, the comparative desertion of his rooms, was this: The contest was hottest that night; the three members of Congress had combined in public to oppose the election of Mr. Pomeroy on the night before; that is, our three Congressmen elect, with our other two candidates, ex-Governor Harvey, Colonel Phillips, and D. P. Lowe and S. E. Cobb and Dr. Logan, of Leavenworth, had combined. Until that night we had never effected as permanent and as strong an organization as we did then, and we were very jubilant over it, and thought we discovered on Saturday that Mr. Pomeroy's men were not as confident. For that reason the comparative desertion of his rooms on Saturday night seemed to me very suspicious, at the time when the contest, as we regarded it, was at the highest or hottest.

Q. That is all the evidence that led you to think that money was being used by Mr. Pomeroy?

A. Those three circumstances all concurred that evening; and the interpretation I put upon the other fact, whether it is just or unjust—I am giving you my reason as to why I came to that—really was, that either those gentlemen had received that money from Mr. Pomeroy as a payment for services, which did not seem reasonable, as they were drafts and not currency, or else they were giving it out to demoralize the legislature, because we believed those men were in his confidence; and third, no man would deny a thing until he was accused unless he was guilty. Another circumstance was, that when we went up there we were just as positive as we could be that ninety-two men were with us, and I believed we had with us a hundred men against Mr. Pomeroy, either directly pledged against him or known to be opposed to him. When we got there we could not count up more than twenty-six who were supposed to be Mr. Pomeroy's friends. That was the highest estimate we could give him of original force. But one by one we found that our men had been weakening, and showing, for some reason, a disposition to support Mr. Pomeroy.

By Mr. THURMAN:

Q. Of how many does the legislature consist?

A. One hundred and thirty-three.

Q. That is, both branches together?

A. Yes, sir.

By Mr. ALCORN:

Q. When was it you agreed as to the disposition you would make of this money?

A. I think that was on Monday night.

Q. That you would appropriate it to the school fund?

A. Yes, sir; the State school fund. I think it was Monday night or Monday morning. I think it was Monday.

Q. Did you there agree on the sum you should demand of Mr. Pomeroy?

A. No, sir; that was not talked of.

Q. Whether it should be a large or a small sum?

A. I do not think there was any amount mentioned.

Q. Or as to the probable amount you would get out of him?

A. No, sir; I do not think there was any sum mentioned.

Q. You stated that your sole purpose was to defeat Mr. Pomeroy for the Senate. Your purpose, as I now understand you to say, was to get his money as well——

A. Let me understand you.

Q. For the school fund. Did you not want to get it?

A. If he should pay me his money, that was the disposition we had determined to make of it.

Q. Were you after his money for the school fund?

A. If he offered the money we were "after it," you might say in that sense.

Q. Have you a daily paper published in Topeka?

A. Yes, sir.

Q. Was there a daily paper published in Topeka the editor of which was unfriendly to Mr. Pomeroy's election?

A. I believe the only daily paper published there is the Commonwealth.

Q. Is that friendly or unfriendly, or neutral, to Mr. Pomeroy?

A. Neutral. I so regarded it. Personally the editor was friendly, but his paper was neutral in position.

Q. The cause of your agreement not to intimate to any one the combination to defeat Mr. Pomeroy was, that the disclosure would come with more force in the joint convention, and your attack would be irresistible. Was that your judgment about it?

A. Yes, sir; that was one reason. Another was, I did not think I could have gone upon the floor of that convention alive if it had been known. That was the feeling I had about the matter. I did not regard this as an attack on Mr. Pomeroy alone, but as an attack on one of the most tyrannical and gigantic systems that ever crushed and bowed down any State. That was what I believed then and have believed since.

Q. Did you think there was danger of assassination?

A. I believed, if it had been known, I never would have gone on the floor alive.

Q. Do you think there is danger of your assassination now?

A. I do not know whether there is or not. I do not trouble myself about it; the object is accomplished that I went into. I believe we have done a good work—a noble work.

Q. You do not value the result or danger as to assassination?

A. I did not give myself any concern about it at the time; but in my conviction, as I said before, it was not Mr. Pomeroy alone, but I believed that he was a part of a system that ramified our State in every way.

Q. I understood you to say it was because of the fear of assassination, or an apprehension of assassination on your part, that led to your keeping this thing secret?

A. I do not mean to say that had taken a tangible shape, except that I would have been prevented in some way from making that declaration, and if assassination was necessary, I believe I would have been assassinated. I do not think for one moment that Mr. Pomeroy would do it,

but I believe that men were backing him who were just bad enough to do anything.

Q. That accounts, then, for the secrecy?

A. The secrecy was for the more successful accomplishment of the object.

Q. So as to bring on the attack at a time when his friends would not be able to resist it?

A. It was intended to bring it on at a time when it would be effective, most certainly it was. I have no concealment to make about the matter.

Q. You intended, if Mr. Pomeroy's friends made any answer to this, that it should be after he was defeated for the Senate, if you could make it so?

A. That is a very natural conclusion, if we sprang at that time; most certainly it was.

By Mr. HORTON:

Q. You spoke about the rooms of Mr. Pomeroy being deserted on Saturday night. Did not the legislature adjourn Saturday night until Monday noon?

A. I think it did.

Q. Did not a large number of the Atchison lobby, where Mr. Pomeroy resides, and members of the legislature, leave Topeka to visit their homes during that adjournment?

A. I cannot say but that they did, or that they did. I presume very probably they did.

Q. There was an adjournment from Saturday to Monday?

A. That is my remembrance of it.

Q. Did not the meeting or combination of the members of Congress who were candidates occur on Saturday night?

A. Yes, sir.

Q. Do you now say to this committee that Mr. Eldredge or Mr. Kalloch, or either of them, were betting any money?

A. No, sir; I have not said so.

Q. You know nothing about that?

A. No, sir; only what I have stated. I know the information I received, and I give that as the basis of one of the reasons that actuated me.

Q. Was not Mr. Billings always counted for Mr. Pomeroy?

A. Not to my knowledge.

Q. Do you not know, and did you not hear when he came to Topeka, that he was instructed for Mr. Pomeroy?

A. I never have understood that he was.

Q. All that you heard him say was, that he was favorable to or strongly for Mr. Pomeroy, but that Mr. Pomeroy's money had not bought him?

A. Yes, sir; and in the way he said it. He said it several times, declaring emphatically that Mr. Pomeroy had not bought him, nor could not buy him.

Q. One other question: Notwithstanding the combination of the Congressmen and the other gentlemen you mentioned, except that your plan was adopted, you thought there was no way of defeating Mr. Pomeroy?

A. I did not think there was with the use of money, that I can say, and I feel that I know that he was making use of.

By Mr. THURMAN:

Q. One question more, senator: Was there any person who knew of

your plan of operations that you have detailed, who was himself a candidate for the Senate in opposition to Mr. Pomeroy?

A. I think not; not to my knowledge.

MONDAY, *February* 17, 1873.

WILLIAM A. JOHNSON sworn and examined.

By the CHAIRMAN:

Question. Mr. Johnson, state what you know, briefly, and in your own way, in reference to this affair.

Answer. You want me to just go ahead and state all that I know in regar to it, from beginning to end, without being questioned?

Q. Yes; go on and make your own statement; we will question you as you go along.

A. I will state that when I went to Topeka, on the 11th of January——

By Mr. THURMAN:

Q. First, tell us, where do you reside?

A. I reside in Anderson County, Kansas. I am a member of the State senate from that district. I will state that when I went to Topeka to attend the session of the legislature I arrived at Topeka on the 11th of January, Saturday evening, and on my arrival there I found Mr. Pomeroy and his friends quartered at the Tefft House, being one of the principal houses or hotels in Topeka. I was informed by the landlord that a large portion of the house or hotel room had been retained by him for the use of his lobby and his friends. It was with a good deal of difficulty that I succeeded in getting quarters.

By the CHAIRMAN:

Q. Never mind these particulars.

A. I was just stating that as preliminary. On Monday night, before the legislature organized on Tuesday, we held an anti-Pomeroy caucus in Union Hall. At that time we had some 64 members of the legislature present with us in caucus. A resolution was passed by that caucus pledging the members of the legislature who were in that caucus to use all honorable means to defeat his re-election.

Q. We do not care about that, if you will come to the point about Mr. Pomeroy.

A. I am coming as rapidly to it as I can, giving the details of why this arrangement was talked over and agreed upon.

Mr. ALCORN. I expect that the witness will make more progress if he is allowed to go on in his own way.

Mr. THURMAN. I think so, too.

The WITNESS. I do not desire to say anything you do not want to hear, or anything that you think would be argumentative.

By Mr. ALCORN:

Q. Go on, and come to the point.

A. I assure you, in my present condition I do not want to talk more than necessary; I have a cold. This anti-Pomeroy caucus was kept up from time to time, from the organization of the legislature till the night before the final election. We had every reason to expect, from talking with members of the legislature, from what they said, and from what they did in our caucus meetings, that at least from 90 to 100 members of the legislature came there opposed to the re-election of Senator

Pomeroy; and as the election approached nearer and nearer, we found men who had been the fiercest and bitterest against Mr. Pomeroy's re-election deserting us, and we would hear from them in his rooms, and around his headquarters, and we had every reason, as I supposed, from gentlemen who were in consultation with him, to believe that improper influences were being brought to bear on those gentlemen to induce them to vote for Mr. Pomeroy.

By the CHAIRMAN:

Q. I wish you would come to the point. These matters of opinion, not based upon facts, are not proper evidence.

A. That is all I desire to say on that. On Saturday evening Mr. York informed me (I am not certain whether it was Friday or Saturday evening, but it was either one or the other, preceding the first vote on Tuesday; he told us) that he had been invited to see Mr. Pomeroy; that Mr. Page, a gentleman from his own town, had informed him that Mr. Pomeroy desired to see him, and that he had informed Mr. Pomeroy, through Mr. Page, that he would see him if he would permit him to bring a friend with him; and he designated that friend as Captain Peck. He also stated to us that he had been informed by Mr. Pomeroy that he would receive him personally or in company with his friend, or as many of his friends as he desired to bring. Mr. York and Mr. Peck visited the room of Mr. Pomeroy either Friday or Saturday night.

Q. Were you there?

A. No, sir; that is what I learned from him.

Q. Tell us what you know about this transaction, not what other people told you unless it was a part of the transaction; and you need not tell us your opinions.

A. All I know about the matter is what occurred between me and Mr. York, and other gentlemen connected with him. I will say this, that I did not speak to Mr. Pomeroy during the whole senatorial contest. I received a note from him, and I answered it; that was the only direct communication between me and Mr. Pomeroy.

Q. Did you see Mr. York on the Monday night after he came from Mr. Pomeroy's room?

A. Yes, sir; after he said he came from Mr. Pomeroy's rooms.

Q. Did he show you any money?

A. Not on that night; he showed me some money early next morning.

Q. Early Tuesday morning?

A. Yes, sir.

Q. He went to bed, he says, I think, about 4 o'clock, and got up about 7?

A. I do not think he went to bed at all.

Q. He laid down?

A. I do not think he went to bed, from the fact that he and I had been occupying rooms adjacent, with communicating doors, and my recollection is, that a gentleman had filled his bed. My room was full, and he had no opportunity to lie down in bed. He came in that night, after he had visited Mr. Pomeroy, and I was in bed. He sat by my stove a few minutes and went out. Next morning, just after daylight, he came in again and we passed into the adjoining room, and then he showed me a package of money that he had in an envelope. He pulled it out from his inside pocket; I would not be certain whether his coat-pocket or vest-pocket, but

it was the inside pocket. He pulled it out in his hand in this way, [illustrating,] and he handed it to me. It was in a large yellow envelope. I took it out. There was one bundle of it done up with a band around the middle, just as though it had been counted out of the bank, and the date on which it was counted, and the amount and perhaps the private mark of the cashier there on that band. The other was in loose bills; I counted them.

Q. How much was it?

A. There was $1,000 in loose bills of the denomination of $100 and $50. The package done up with a band around it I did not open, but only saw there was $1,000 stamped on it.

Q. When was that?

A. That was on Tuesday morning, just after daylight.

Q. Did you see Mr. York on Tuesday evening?

A. On Tuesday evening? Yes, sir; I saw him.

Q. I mean in reference to this affair, at all?

A. Not to speak with him. The next conversation I had with Mr. York in reference to this transaction was on Wednesday morning. On Tuesday he took rooms at private boarding, and on Wednesday morning I called at his room.

Q. At about what time?

A. It was between 9 and 10 o'clock, as I went from my hotel to the meeting of the senate. The senate met at 10 o'clock. I was going up to attend the session. I went into his room and we had a conversation in regard to this money.

Q. Did you see the money there?

A. Yes, sir; he opened his trunk and pulled out what I should judge to be the same bundle of money I had seen the morning previous. It was in a yellow envelope, and then there was another bundle of money that was rolled up in a yellow paper. I took the paper off of it and found there were five packages of money, and it was done up in the same style with the bundle I spoke of seeing the morning before.

Q. Each package contained what?

A. Contained, I suppose, from the marks upon it, $1,000. I should judge that I remained in Mr. York's room fifteen or twenty minutes at that time, and left and went over to the senate chamber. The senate met and proceeded to transact some business before we went into joint convention.

Q. Did Mr. York go with you?

A. No, sir; I do not think Mr. York came in until about half after eleven o'clock.

Q. Did Mr. York inform you of the exposure he purposed to make in the senate chamber?

A. Yes, sir.

Q. When you had this conversation with him on Tuesday, had you seen him before he went to Mr. Pomeroy's?

A. I saw him Monday evening, and talked with him; between 7 and 8 o'clock on Monday evening. Then I saw him about half an hour later, down at a house very nearly opposite to the Fifth Avenue Hotel, and I saw him at a still later hour in the evening in our anti-Pomeroy caucus. I was the chairman of the meeting, and he was the secretary; he staid there a few minutes, perhaps fifteen or twenty minutes, and he left; and I saw him again about midnight, just about midnight, when our caucus adjourned. He told me then, if you will permit me to say——

Q. Certainly.

A. He told me he had been up to see Mr. Pomeroy, and Mr. Pomeroy

was engaged by other parties and he could not have the interview that he had requested of him up to that time; but he had requested him to return again at 1 o'clock; and he went away from my room about 1 o'clock, and returned again, I should judge, in about two hours or two hours and a half after he had gone.

Q. Did he tell you immediately of the result?

A. He informed me that Mr. Pomeroy had paid him some money.

By Mr. THURMAN:

Q. You are the senator, the gentleman named Johnson, whom Mr. York has spoken of as being at that meeting of four?

A. Yes, sir, I suppose so; I am the only man of the name in the senate.

Q. Mr. York, Mr. Simpson, yourself, and who else?

A. Mr. Horton.

Q. About what hour in the evening was that meeting held?

A. The first meeting?

Q. Yes; that at which you concluded that he should see Mr. Pomeroy?

A. I should judge it was about 7 o'clock.

Q. In what room of the hotel was it?

A. It was in room No. 107 of the Tefft House.

Q. Who occupied that room?

A. That room was occupied by Major Simpson.

Q. It was Major Simpson's room?

A. Yes, sir.

Q. At that meeting it was agreed that Mr. York should call upon Mr. Pomeroy, and, if offered money, should receive it, and should then expose him.

A. I should not use that expression, that "it was agreed."

Q. State how the matter was.

A. I would rather do that and use my own expressions.

Q. Certainly; go on.

A. Mr. York requested me and Mr. Horton to come into Mr. Simpson's room; that he had some matter that he desired to lay before us, or he desired to see us and talk with us about senatorial matters. He told us that he had been invited to have a business interview with Mr. Pomeroy, and as we had talked the matter over frequently, and we believed money was being used, he asked us our opinion respecting the matter, and what we thought of an enterprise of that kind. He said that he had been invited by Mr. Hairgrove, a gentleman from Independence, who had been former auditor of the State, to see Mr. Pomeroy on a business matter that night; and it was felt by him, and in fact by all of us, that we believed that that meant a money proposition, and we advised Mr. York that, inasmuch as he had been invited a number of times by Mr. Pomeroy and his friends to go and see him, to avail himself of the opportunity to go and see Mr. Pomeroy, and that, if Mr. Pomeroy offered to give him money in consideration of his vote, for him to accept it and expose him before the legislature.

Q. You advised him to that course?

A. Yes, sir; we did—all of us.

Q. What was said at that time about the time when the exposure should take place? Of course it was essential to such a thing as that that it should be kept secret.

A. As a matter of course.

Q. But what was said as to the time when the exposure should be made? or was anything said?

A. Yes, sir; there was.

Q. What was said as to the time when the exposure should be made by Mr. York in case Mr. Pomeroy gave him money for his vote?

A. I am not able to state just what that advice was, but it is my recollection that we thought the proper time to disclose that fact would be when we went into joint session.

Q. On Wednesday?

A. On Wednesday.

Q. Did you discuss the question whether it would be proper to do it at the vote on Tuesday?

A. Yes, sir. That refreshes my recollection in regard to the matter. This was the reason why the disclosure was not to be made on Tuesday. The fact was we had not yet agreed upon a candidate in opposition to Mr. Pomeroy, and there were still four prominent candidates before the legislature; we had not yet determined who should be the choice of the anti-Pomeroy men in that election; and we had agreed in our caucus that we would not agree upon our candidate until Tuesday night after the first vote had been taken.

Q. After the first vote had been taken separately in the two houses?

A. Yes, sir.

Q. That is the reason, you say, the disclosure was not to be made then?

A. Yes, sir. I recollect that I advised that myself. I stated that I did not think it would be just to either of the aspirants that that matter should come up at that time; that it ought not to be in the interest of any particular man.

Q. You have spoken of two caucuses, the Pomeroy caucus and the anti-Pomeroy caucus. Were those caucuses composed wholly of members of the republican party?

A. No, sir.

Q. Did the democrats go in?

A. The democrats went in.

Q. Into each caucus?

A. Into both.

Q. It was not a party caucus then?

A. Not strictly.

Q. Except Pomeroy and anti-Pomeroy?

A. That was the way we designated them, and that was the way it appeared in the public prints.

Q. Was there any attempt to hold a caucus of all the republican members of the legislature to determine by it who should be the republican candidate?

A. There was not to my knowledge, and if there had been I think I would have been there.

Q. From the first it was Pomeroy and anti-Pomeroy?

A. Yes, sir, from the first; and I would say, if you will allow me the expression, that that was the fight we made last fall throughout our election, and I think it was general throughout the State.

A. I only want to get at the fact that these caucuses were not composed of members of one political party, but of both political parties.

Q. They were not. I should say they were not party caucuses; that is, in the strict sense of party caucuses.

Q. But a Pomeroy caucus and an anti-Pomeroy caucus?

A. Yes, sir; that was the line of our fight.

By Mr. ALCORN:

Q. What is the relative strength of the two parties?

By Mr. THURMAN:

Q. Very few democrats?

A. Very few.

By Mr. ALCORN:

Q. How many democrats are there in both houses?

A. I am not able to say, but I will say this. I think there are of democrats, liberals, independents, to the number of about 26.

Q. In both houses?

A. Yes, sir.

By Mr. THURMAN:

Q. Out of 133?

A. Yes, sir.

Q. The others are simon-pure republicans?

A. Yes, sir; genuine republicans; such as we have in Kansas, any way.

By Mr. HORTON:

Q. Judge Johnson, of your own knowledge do you know where the $1,000 or $2,000 you speak of came from?

A. My first knowledge is that it came out of Mr. York's pocket. I have no knowledge back of that at all.

Q. Of your own knowledge do you know where Mr. York received the $2,000?

A. I do not.

Q. Of your own knowledge do you know where he received the $5,000?

A. I do not.

Q. Of your own knowledge do you know, or from any statement made to you by Mr. Pomeroy, do you know that he ever received either of these sums from Mr. Pomeroy?

A. I could not say, for, as I told you, I was not present, nor did not speak to Mr. Pomeroy.

Q. Then you know nothing about his actually receiving any money from Mr. Pomeroy, except upon the statement of Mr. York?

A. Certainly; that is what I said.

Q. You spoke of a Pomeroy and anti-Pomeroy caucus. How many Pomeroy caucuses were there?

A. I do not know. Judge, you know more about that than I do; you were in them.

Q. You were speaking of them.

A. I only know of them from what I learned from gentlemen outside of the house.

Q. You say the independents, liberals, and democrats divided between the two caucuses?

A. Yes, sir.

Q. Some went to one caucus and some to the other?

A. I said that was my understanding of it.

Q. There was no republican caucus held of the entire republican members of the legislature to decide who should receive the vote for Senator?

A. There was not, to my knowledge.

At 6 o'clock, the committee adjourned to meet to-morrow at 10 o'clock a. m.

TUESDAY, *February* 18, 1873.

JAMES C. HORTON sworn and examined.

By the CHAIRMAN:

Question. Where do you reside, and what is your avocation?

Answer. I reside in Lawrence, Kansas. I am agent for the Kansas Pacific Railway.

Q. Make your statement as to anything that you know in reference to the alleged bribery or attempt to bribe Mr. York by Mr. Pomeroy?

A. On the evening of Monday, the 27th day of January, 1873, Senator York invited me to Benjamin F. Simpson's room at the Tefft House, in the city of Topeka, Kansas. Senator Johnson, Mr. Simpson, Colonel York, and myself, were together in the room. Colonel York said that he had become satisfied that Mr. Pomeroy intended to buy his way through, or was buying his way through, or words to that effect. He then stated that a few moments before, as I understood him, he had been invited to a private interview at Senator Pomeroy's room, on business. I think he said, "I know what that means." I think he then said, "I will not go to the room; I have not given my reply whether I will go or not, and will not until after consulting with you." The name of the person who had invited him to the room he did not give. He then said, "I will take your advice. If Senator Pomeroy offers me money for my vote, shall I take it?" I think Simpson, and Johnson, and we all said that we believed he would buy his way through, and the only way to defeat him was to take his money, if he offered it, and expose him. I remarked to Colonel York: "Colonel, it takes a good deal of nerve to do that;" and he replied that he had the nerve to do it if it was necessary. He then said that he would like us to see how much money he had on his person. He opened his coat in this way, (illustrating.) I think he took out one pocket-book; a long pocket-book. My recollection is that that had no money in it. He took out another small pocket-book, and I believe it had $40 in money, and perhaps a little change over, and a $60 check or certificate of deposit. A few moments after that I left the room. I did not see Colonel York any more that night that I recollect of. I saw him once or twice the next day, but had no conversation with him about this money.

On Wednesday morning, Mr. Simpson told me that Colonel York wanted us to come up to his room. This was the day of the vote in the joint convention. About the time I got up to go, I could not find Mr. Simpson, and I met George R. Peck, of Independence, and asked him to show me the house where Colonel York was stopping; he had left the hotel and gone to some private house. He took me up the street a way and showed me the house, near the capitol. I went to the house and to Colonel York's room. After I had been in the room a moment or two, he took $7,000 in money, either out of a drawer or out of a sack; I am not positive where he took the money from, but he laid down $7,000 on a little table. Said he, "There's the money that I received from Mr. Pomeroy; I want you to count it." I counted it over, and there were $7,000 there. I then asked him how he felt, and he said to me, "Horton, I have had a fearful struggle over this thing." I think he said he had been praying over it, and that he felt all right now. I then left him and went over to the capitol; met Mr. Simpson there. He told me that he wanted to see Colonel York a moment, but thought he had not time. I asked him if I could not do as well, and he said that all he wanted to say was to come to the State-house just as

the senate would be called, and to keep his courage up, or something of that kind.

I went back to Colonel York's room, asked him to show me what time it was by his watch, and told him that his watch was about with the State-house clock, and to come over just before the senate would be called. I then went back to the State-house and remained there until after the joint convention, and after his speech there. I met Lieutenant-Governor Stover, I might mention here, just before the senate convened, in the passage-way in the crowd near the entrance to the senate-chamber, and asked him if Senator York rose to make a statement in the joint convention to recognize him. I do not know whether he made any reply, but I think he nodded his head.

Q. Is there anything further you have to state?

A. Nothing in connection with Senator York that I recollect of now.

By Mr. VICKERS:

Q. In the meeting between you and Colonel York and others, was anything said about the course to be pursued in the joint convention if an attempt was made to adjourn or take a recess?

A. No, sir.

Q. Did Colonel York state his reasons for suspecting Mr. Pomeroy?

A. He may have done so; it was talked generally that our men were dropping off, men that had been anti-Pomeroy men were weakening. It may have been that. I do not remember any particular reasons he gave.

Q. What o'clock was it when you left Mr. Simpson's room that night?

A. I do not remember.

Q. Seven o'clock?

A. I cannot tell you what time in the evening it was; I do not remember what time we went there.

Q. Was it arranged between you gentlemen on that occasion what was to done with the money if Mr. Pomeroy offered it and Mr. York took it?

A. He was to produce it in the convention.

Q. Ultimately what was to be done with it?

A. No, sir.

By Mr. BUCKINGHAM:

Q. Was it determined in your council with Mr. York, on Monday evening, whether the exposure should be made in the senate or in the joint convention?

A. I do not know that that was discussed.

Q. You have no recollection of that question being discussed on Monday evening, the 27th of January?

A. I do not think it was; it may have been, but I do not think it was; or perhaps it was that it should be in the joint convention; but I do not remember about that.

By Mr. THURMAN:

Q. Did the meeting that you speak of occur on Monday evening?

A. Yes; Monday the 27th of January. The vote in the separate houses took place the next day. The joint convention was on Wednesday.

Q. You were not, then, at any meeting on Saturday?

A. I was not.

Q. Did I understand you that on Tuesday you saw Colonel York?

A. I met him once or twice that day, but did not have any conversation with him about this matter.

Q. Did you have any opportunity to converse with him about it on Tuesday?

A. I did, if I were disposed to do so. I did not meet him privately; I merely met him about the house, and passed him once or twice.

By Mr. VICKERS:

Q. Did you know until Wednesday morning that he had got money?

A. I had no conversation with Colonel York about the matter of money until Wednesday morning. I had heard of it, but not from Colonel York.

Q. You had seen him several times?

A. I met him, I think, once or twice on Tuesday, and he went away to a private house on that day. I merely spoke to him, but not about this matter.

Q. Did you say anything to him about it after you had heard it from another source?

A. No, sir.

By Mr. HORTON:

Q. What railway corporation are you connected with?

A. The Kansas Pacific.

Q. Is that one of the largest and most extensive lines of railway in Kansas?

A. I do not know that it is. The Atchison, Topeka and Santa Fé have about as may miles of railway as that.

Q. Other than that, is there any other that compares with it?

A. No, sir; I think it is the largest except the Atchison, Topeka and Santa Fé.

Q. What was your purpose and object at Topeka?

A. My object was to help defeat Mr. Pomeroy.

Q. Were you a member of the legislature?

A. No, sir.

Q. Did you leave your home and your business and go to Topeka on purpose to assist in beating Senator Pomeroy?

A. Well, I had some other matters before the legislature, but I was there and spent some time for that purpose.

Q. Prior to your interview with Mr. York, had you and Mr. Simpson, or other parties, talked or agreed together about a plan of obtaining money from Mr. Pomeroy and exposing him?

A. I never had any agreement. Such a plan had been talked of by other parties, possibly by Mr. Simpson.

Q. Had you and Mr. Simpson originated that plan prior to speaking to Mr. York?

A. No, sir. The first man who ever spoke to me about it was Thomas A. Osborne, the governor of Kansas, in the city of Leavenworth, about the 20th of November, I think after the election. I met him on the street, in front of Newman & Haven's bank, and congratulated him on his election as governor. We spoke about the senatorship, and I said, "The legislature seems to be largely against Pomeroy." "Yes," he said, but I think the language he used was "the old cuss will use money, and buy his way through." Then I think he said there would be a way to beat him if some man would take his money and expose him, and I think he mentioned the man who could do it if he would.

Q. During the senatorial canvass was not Governor Osborne friendly to Mr. Pomeroy?

A. I do not think he was. I never had any conversation with him about the senatorial question while the canvass was going on. Ex-Governor Robinson——

Q. Wait a moment. I am asking some questions, and you will please answer them. Was Governor Osborne, during the senatorial canvass, at any time active against Mr. Pomeroy?

A. I do not know whether he was or not. I do not know the position he took. I never had any conversation with him about the senatorial question at Topeka.

Q. Let me ask you then, if you and Mr. Simpson, at Topeka, did not, yourselves, speak about obtaining a party to get money from Mr. Pomeroy and then expose him?

A. We may have done so. I do not remember any such conversation.

Q. Have you read Mr. Simpson's testimony before the legislative committee of Kansas?

A. I have not.

By the CHAIRMAN:

Q. Did you hear it?

A. No, sir; I did not. I have heard no testimony of any party.

By Mr. HORTON:

Q. Let me ask you if this statement is not correct:

"The plan adopted by Senator York was first considered by J. C. Horton, of Lawrence, and myself, without reference to the persons to execute it."

I will hand you Mr. Simpson's testimony before the legislative committee, that you may read the words yourself. State whether that is not the fact?

A. I may have had conversation with Mr. Simpson about it, but I do not recollect it.

Q. Let me repeat the question, then.

A. I think it is very possible it was talked about. It was talked about by a great many people there.

Q. Let me repeat the question: Was not the plan adopted by Senator York first considered by yourself and B. F. Simpson without regard to a person who should execute the plan?

A. It may have been, but I do not recollect it. It is possible that it was. I have no positive recollection about it.

Q. Who occupied a room with you?

A. I roomed in the third story, Tefft House, in room 129.

Q. Did you occupy a room with Mr. Simpson?

A. No, sir; I never was with him but one night, and that was the night before the final vote.

Q. How many conversations had you with Mr. Simpson in regard to having a party obtain money from Mr. Pomeroy and then expose him, prior to your conversation with Mr. York?

A. I said that I did not remember of any. I may have had, but I do not remember.

Q. Upon refreshing your recollection, did you not have several?

A. I do not think I did.

Q. Did you have any?

A. I said I did not remember that I had any. It is possible I had. I had conversation with people there all the time. I cannot remember everybody I talked with. I had a conversation on Monday, the 27th of

January. I had a conversation with ex-Governor Robinson on the train.

Q. I am speaking of the parties you mentioned who were in the room. Give their names again.

A. B. F. Simpson, Colonel York, Senator Johnson, and myself.

Q. Did you have any conversation with those parties about this matter other than what you have told, on that evening, after the interview?

A. No, sir; I went out of the room.

Q. Before the others?

A. I left before the rest did.

Q. Did you know, other than from the statement of Mr. York, whether he ever saw Mr. Pomeroy or not after that evening?

A. After our interview there?

Q. Yes.

A. I do not know personally?

Q. Have you any personal knowledge whether he ever obtained a dollar or a cent from Mr. Pomeroy?

A. Not personally.

Q. When he spoke about praying did he say *p-r-e-y-i-n-g*?

A. I said what he said.

Q. You did not understand exactly how he spelled it?

A. I told you what he said.

Q. What hour was it that you left the interview; what time on Monday night?

A. I do not remember what hour it was.

Q. Can you not tell anything about the time?

A. I do not remember whether it was 7 o'clock or 10 o'clock, or what time it was. I do not recollect what time we went to the room or when we came out.

Q. It did not impress your mind?

A. It did not. I cannot tell you what hour it was.

Q. Then the interview at that time was not a very serious or important interview?

A. I did not charge my mind with the hour, and I cannot tell you now what hour it was.

Q. Was it of sufficient importance for you to call the attention of Mr. York to it at any time previous to Wednesday?

A. No, sir.

Q. You never conversed with him about it?

A. I never had a word's conversation with him about it until Wednesday morning from the time I saw him in his room.

Q. How many times did you meet him the next day?

A. I met him either once or twice.

Q. If you were at Topeka to defeat Mr. Pomeroy was it not important for you to find out what had been done with that plan or that arrangement?

A. I did not think it was necessary to talk with him about it.

Q. Had you not been called in to consult about it on Monday night?

A. Yes, sir; I was called in to consult about it.

Q. And you did not think it was necessary to say anything more about it?

A. I did not.

Q. Personally do you know anything about that money or where it came from?

A. No, sir.

Q. You say you are not a member of the legislature?
A. I am not.
Q. Do you hold any public office in the State of Kansas?
A. No, sir.
Q. I understand you to say that you went to the lieutenant-governor and asked him to recognize Mr. York?
A. Yes, sir.
Q. You supposed that he would obey your request?
A. I did not know whether he would or not. I just asked him if he would recognize Senator York if he rose to make a statement.
Q. What did you say to the lieutenant-governor at that time?
A. I think I said, "If Colonel York rises to make a statement in joint convention, please recognize him."
Q. Where were you on Saturday previous to this Monday?
A. I think I was in Lawrence.
Q. When did you leave Topeka to go to Lawrence?
A. I think I went down Saturday noon. I am not certain; I may have gone early in the morning.
Q. Did not a large number of members of the legislature and the lobby leave on Saturday noon?
A. I do not know. They usually went home, a great many, on Friday or Saturday.
Q. And came back when?
A. Monday.
Q. Did not the Douglas County delegation go down on Saturday?
A. I think it did, but I am not sure about that.
Q. Is it not a fact then that most of the lobby and members of the legislature left on Saturday?
A. A great many did; I do not know but most of them did. I do not think most of them did. I think on this Saturday there may have been fewer, as it was nearer the senatorial election than the other Saturday.
Q. But you went away with some others?
A. I went away, and I think most of the delegation from our county went away.

By Mr. SIMPSON:

Q. State whether or not you were at Topeka in the employment or at the instance or request of the Kansas Pacific Railway.
A. I was not.
Q. Either directly or indirectly?
A. No, sir. I want to state to the committee, for that corporation, that no officer of that corporation ever spoke a word to me on the senatorial question. So far as I know they took no part in the election either one way or the other. I was there without any request from the company.
Q. State whether or not, in the interview that you had with Colonel York, Senator Johnson, and myself, on Monday preceding the senatorial election, there was any agreement or understanding that this movement should be communicated to any officer of the legislature of the State of Kansas, or to any other person.
A. No, sir; I do not think there was.

WEDNESDAY, *February* 19, 1873.

FRANK BACON sworn and examined.

By the CHAIRMAN:

Q. Are you a member of the house of representatives of the legislature of Kansas?

A. I am.

The CHAIRMAN. I ask Mr. Simpson whether this witness is to be examined as to charges of bribery?

Mr. SIMPSON. Yes, sir.

The CHAIRMAN. And you propose to connect it with Mr. Pomeroy?

Mr. SIMPSON. Yes, sir; we propose to show that an offer was made to this witness, a money consideration for his vote, by a gentleman who was one of the managers and main supporters of Mr. Pomeroy; that from declarations of that gentleman to the witness, as to his authority to do certain matters, the facts in the case circumstantially connect Mr. Pomeroy with the transaction.

The CHAIRMAN. We will hear the testimony. (To the witness:) Proceed, Mr. Bacon, and state what you know in reference to any bribery or offer to bribe a member of the legislature by Mr. Pomeroy.

The WITNESS. I received two different offers, or offers from two different persons. On or about the 20th of January I made the acquaintance of Dr. Rohrabacher, a member from Sumner County. He told me that he was a friend of Mr. Pomeroy, and asked me if I proposed voting for him. I told him that I did not, under any consideration. A few days after that, in another conversation with Dr. Rohrbacher, he asked me the same question again. I told him that the only consideration upon which I would vote for Mr. Pomeroy would be to beat a worse man than I considered Mr. Pomeroy to be. That was all the conversation I had with him at that time. About 12 o'clock on the night after the first ballot, Tuesday night, I met Dr. Rohrabacher in the Tefft House. He requested me to come to room 104. I went with him to that room. He told me that he wanted I should see Judge Horton. I asked him who Judge Horton was. He informed me that he was the confidential adviser of Mr. Pomeroy. He was absent a few minutes, and returned with Mr. Horton. Mr. Horton introduced himself as being the attorney for the Atchison, Topeka and Santa Fé Railroad Company. He said it was very desirous on the part of that company that Mr. Pomeroy should be re-elected, and he desired that I should vote for him, and in consideration of my voting for Mr. Pomeroy he would pay my expenses in my canvass. He asked me what my expenses were. I told Mr. Horton that $2,000 would cover my expenses. He said that they were not prepared to pay any such price as that, but were willing to pay a reasonable amount. I asked him what he considered to be a reasonable amount, and he said "six hundred or a thousand dollars." He then told me that my colleague was going to vote for Mr. Pomeroy, and he thought that we had better go together.

By the CHAIRMAN:

Q. What is his name?

A. C. F. Hutchins. I told him that Mr. Hutchins and I in our canvass had repeatedly said that we would not vote for Mr. Pomeroy; and he said that that could be fixed up in a manner that would not create any disturbance upon our return. He said a few minutes afterward that he believed he would not make any offer, he would recall his offer; and then again he said that he would pay six hundred or a thousand dollars.

I then told him that I had means enough to live comfortably, and that I declined his offer, and got up and left the room and the house. The next day, after I had taken my seat, a few minutes before the joint convention was called to order, Dr. Rohrabacher came to my seat and told me that the two thousand dollars was ready for me if I would vote for Mr. Pomeroy. I told Dr. Rohrabacher that I refused his offer, and he immediately left me.

Q. Anything further?

A. I believe not.

By Mr. VICKERS:

Q. What were your legitimate expenses in the canvass?

A. I do not know; they were nowhere near that amount.

Q. What is your estimate of them?

A. I have not put any estimate upon them at all.

Q. Five hundred?

A. I have not any idea.

Q. You do not know that they were $500?

A. I do not.

Q. What were your expenses?

A. I have never kept any account.

Q. Can you not estimate them?

A. I cannot.

Q. Were you indignant when these offers were made to you?

A. No, sir.

Q. Who is Judge Horton?

A. The counsel for the defendant.

Q. Have you seen him since?

A. I have.

Q. Where is he?

A. He sits there. [Pointing to Mr. Horton, counsel for Mr. Pomeroy.]

By Mr. BUCKINGHAM:

Q. Did you ever have any conversation with Mr. Pomeroy in reference to his re-election?

A. No, sir. I had a conversation with Mr. Pomeroy, but the senatorial election was not alluded to.

Q. You had no offer from him then?

A. Not directly.

Q. Do you know that this offer came from him, or do you know nothing about it?

A. Dr. Rohrabacher told me that any offers or arrangements he could make with me came directly from Mr. Pomeroy; that there was no third party. That was the exact language he used.

Q. Was the anxiety manifested to secure the re-election of Mr. Pomeroy particularly in the interest of the railroad company, or in reference to Mr. Pomeroy?

A. I inferred from Judge Horton's remark that the Atchison, Topeka and Santa Fé Railroad Company were interested in having Mr. Pomeroy re-elected.

Q. Did you receive any idea from him that this offer was from Mr. Pomeroy?

A. Not by Judge Horton.

By Mr. VICKERS:

Q. Had the first-named gentleman any connection with the railroad of which you have spoken?

A. I know nothing only what he told me.

By Mr. HORTON:

Q. Was Mr. Rohrabacher at one time a member of the legislature?

A. He was not at that time.

Q. Was he at one time?

A. He was.

Q. Was he not expelled from that legislature by the friends of Mr. Pomeroy?

A. I do not know that he was.

Q. Do you know the names of the election committee of that legislature?

A. I do not know all of them.

Q. Do you know Mr. Bowers?

A. I do.

Q. Mr. Simpson?

A. Yes, sir.

Q. Mr. Moats?

A. Yes, sir.

Q. Mr. Fields?

A. I do not.

Q. Mr. Titus?

A. I do.

Q. Was not the election committee in that house composed of those individuals I have named?

A. I cannot say, only as to Mr. Titus. I know that he was a member of the committee.

Q. Do you not know that Mr. Bowers was chairman of that committee?

A. I do not.

Q. Are you not a member of that legislature?

A. I am; but I do not remember the committee.

Q. And you do not know the name of the chairman of the committee on elections, nor the names of any members of the committee?

A. None but Mr. Titus.

Q. He is the last name?

A. I do not know. I know he is a member of that committee.

Q. Has not that committee made many reports in that legislature?

A. That is the only report I remember of.

Q. Do you recollect any report they made in regard to Mr. Dorsey and Mr. Baker, of Salina?

A. I do not remember those reports.

Q. Is it not true that that election committee made four or five reports in that legislature through their chairman when you were present?

A. I do not know. I was not present, certainly.

Q. Have you not been present during all the time of the legislature up to the senatorial election?

A. Not all the time.

Q. Where have you been?

A. I have been in Topeka.

Q. And not attending to your duties?

A. Yes, sir; but I was often absent from the representatives hall. I must have been absent during that report.

Q. I mean during the various reports?

A. I do not remember any reports, but in the case of Mr. Rohrabacher.

Q. Is it not true that Mr. Rohrabacher was ousted from that legislature?

A. Yes, sir.
Q. Do you know Daniel M. Adams?
A. I do.
Q. How was he regarded in the senatorial election—friendly to Mr. Pomeroy, or against him?
A. Friendly.
Q. Did he not offer the resolution ousting Dr. Rohrbacher from his seat in that legislature?
A. He did.
Q. Was he not ousted from his seat?
A. He was.
Q. Did not the gentleman who occupied his seat, or who took his position, vote for Mr. Pomeroy on the first ballot—Mr. Miller?
A. I do not remember how the gentleman's name is recorded
Q. Do you know Mr. Miller?
A. I do not.
Q. The gentleman who contested Rohrbacher's seat?
A. Only by sight; I have never spoken to him.
Q. You say you do not know how he voted?
A. I do not.
Q. At this time, then, this man Rohrbacher had lost his seat in the legislature?
A. He had.
Q. How many years did Rohrbacher tell you he had been in the penitentiary?
A. Two years and a half.
Q. For what crime?
A. Burglary.
Q. Did Mr. Rohrbacher present you or show you any money?
A. He did not.
Q. At what time of night did you see me, as you have testified here?
A. I think it was about 12 o'clock at night.
Q. Did you board in that house?
A. I did not at that time.
Q. How did it happen that you came to that hotel at 12 o'clock at night?
A. I was on my way from the anti-Pomeroy caucus to my boarding-house, and called a moment at the Tefft House.
Q. Had I ever spoken to you or been acquainted with you before that evening?
A. No, sir; you had not.
Q. Had I ever been introduced to you?
A. No, sir.
Q. Did you not tell Mr. Rohrbacher that you wanted to see me in a certain room?
A. I did not.
Q. Did you go to any of my rooms or any room that I had?
A. I did not, without that was your room, 104. I do not know whose it was.
Q. Did you know that it was, or did anybody tell you it was?
A. No.
Q. You do not say it was my room?
A. No; I do not.
Q. Was it on any floor that I occupied?
A. I do not know what part of the house you occupied.
Q. Do you know whose room it was?

A. I do not.

Q. After I came into the room did you not say to me that you came there to sell your vote?

A. I did not.

Q. And that you wanted $2,000?

A. I did not.

Q. And did I not say to you that we were not using money in this election, and we did not need any more votes?

A. You did not tell me that you were not using money in that election. You said you did not need any more votes.

Q. Did I not then leave the room and you say you wanted another interview with me?

A. I did not.

Q. Did you not come to that house next morning, and I refuse to have an interview with you?

A. No, sir; I did not come to that house to seek any interview with you.

Q. Did you not go to that room the next morning and send for me?

A. I did not.

Q. Or some room in the house?

A. I did not.

Q. You say you never had any conversation with Mr. Pomeroy?

A. I did; but not in reference to the senatorial matter.

Q. Did he ever speak to you or use any language to you in regard to money being used?

A. He did not.

Q. Have you ever heard Mr. Pomeroy say that anybody had authority to use money for him in any shape or form?

A. I have not.

Q. Do you know, of your knowledge, of Mr. Pomeroy offering money to you or authorizing anybody to do it?

A. I do not.

Q. Do you know, of your knowledge, that Mr. Pomeroy, directly or indirectly, paid one dollar to any member of that legislature?

A. I do not.

Q. Do you know, of your own knowledge, of Mr. Pomeroy's authorizing any man to pay any money to any member of that legislature for his vote?

A. I do not.

Q. Do you know where Mr. Rohrbacher stopped first, at what hotel, when he came to the city of Topeka?

A. I do not know positively, but think he stopped at the Tefft House.

Q. Is it not true that he was requested to leave the Tefft House by the friends of Mr. Pomeroy, and that he did leave there on account of his disreputable character?

A. I do not know.

Q. Did he not leave that house?

A. I think he did; but am not positive.

Q. In what State did Mr. Rohrbacher say he was in the penitentiary?

A. In the State of Iowa.

Q. Have you any knowledge that Mr. Rohrbacher had any authority from Mr. Pomeroy, excepting his statement to you?

A. I have not.

Q. Were you an attendant of the anti-Pomeroy caucuses?

A. I was.

Q. Did Dr. Rohrbacher attend those caucuses?

A. I think I never saw him only at one meeting of the anti-Pomeroy caucus.

Q. You say you were not indignant when the offer was made to you?

A. I was not.

Q. And you say now to this committee that you did not tell me that you wanted money for your vote, and that if you got it you would satisfy your constituents?

A. I did not.

Q. And that I refused to have any talk to you after that?

A. No, sir.

Q. Did I ever have any other talk with you than that?

A. That was the only talk.

Q. That was the first time I ever met you?

A. Yes, sir.

Q. And the only time?

A. Up to the present.

Q. And with that limited acquaintance, and the only time I ever met you, you say I told you that I would pay your expenses?

A. You did, sir.

Q. Had you ever been acquainted with me before?

A. I had not, sir.

Q. Had I ever spoken to you?

A. No, sir.

Q. Did you live in my section of country?

A. I did not.

Q. When did you first ever see me?

A. At the meeting just alluded to.

Q. And never spoke to me after?

A. No, sir.

By the CHAIRMAN:

Q. Did you, or not, go the next morning to the house where you had the interview just spoken of with Judge Horton?

A. I did, as that is a political headquarters.

Q. At what time in the morning did you go there?

A. I do not know, sir. I was in and out the office of the Tefft House every few minutes during the canvass.

Q. Did you go to the room where you had been the evening before?

A. No, sir; I did not.

By Mr. VICKERS:

Q. By whose invitation did you go to room 104 at night?

A. Dr. Rohrbacher's.

By Mr. HORTON:

Q. Did you not send word the next morning by Rohrbacher, or some one, for me to see you?

A. I did not.

Q. I understood you to say to the committee that I did not see you the next morning.

A. You did not.

By Mr. SIMPSON:

Q. State what county you represent in the legislature?

A. Neosho County.

Q. What part of the State is that in?

A. The southern part.

Q. Do you know where Judge Horton resides—in what part of the State?

A. Only from hearsay. I am told that he resides in Atchison.

Q. Where is that?

A. In the northern part of the State.

Q. Do you recollect the vote in the legislature by which Mr. Rohrbacher was voted out and the gentleman who contested his seat voted in—Mr. Miller?

A. I do not.

Q. Do you know whether that room 104 at the Tefft House was Mr. Rohrbacher's room or not?

A. I do not know whose room it was.

Q. State where that room was situated; in what part of the Tefft House was the room located?

A. On the first floor of the Tefft House.

Q. Now state whether or not the Tefft House was a headquarters for all members of the legislature and all the senatorial candidates.

A. It was.

Q. Always a crowd there?

A. Yes, sir.

Q. Give the language, as near as you can, that Rohrbacher used to you in reference to your visit to that room, No. 104, at the Tefft House.

A. The office was full of men, and he requested me to go to room 104, so that he could have a private conversation with me. After we got in the room, he locked the door, and told me that he had been authorized by Mr. Pomeroy to negotiate for my vote, but, said he, "I should prefer that Judge Horton should talk to you." I asked him who Judge Horton was, and he told me he was the confidential adviser of Mr. Pomeroy. He left the room, and returned in a few minutes with Mr. Horton. Mr. Horton passed in; Dr. Rohrbacher closed the door, and I suppose left the hall.

Q. Did Rohrbacher come to the door of the room with Judge Horton?

A. Yes, sir.

Q. Did he enter the room?

A. I think not.

Q. Horton came into the room?

A. He did.

Q. Rohrbacher shut the door?

A. Yes, sir.

By the CHAIRMAN:

Q. Was Rohrbacher a Pomeroy or anti-Pomeroy man?

A. He was decidedly a Pomeroy man.

By Mr. HORTON:

Q. Did not Pomeroy's friends vote him out of the legislature?

A. I do not think they did.

Q. Did you not just state that Mr. Adams, a friend of Mr. Pomeroy, offered the resolution ousting him?

A. He did.

Q. Do you know Mr. C. C. Hutchinson?

A. I know him.

Q. Do you know how he voted on that?

A. I do not remember.

Q. Do you know how Mr. Bowers, the chairman of that election committee, is as to being Mr. Pomeroy's friend?

A. I do not.

Q. You are not very familiar with the votes in that legislature, are you?

A. I am not.

By Mr. SIMPSON:

Q. Do you know or not that the committee on elections in the house of representatives made a unanimous report against Mr. Rohrbacher?

A. I do not.

Q. And that the resolution reported by the committee on elections was adopted in the house by an almost unanimous vote?

A. I know that the resolution was adopted by an almost unanimous vote. I do not remember the names of parties or how they voted.

By Mr. VICKERS:

Q. In the caucus of which you spoke, where Dr. Rohrbacher was admitted, the anti-Pomeroy caucus, was he admitted as a Pomeroy man or an anti-Pomeroy man?

A. It was rather upon the organization of the caucus. That was the only time I ever remember meeting him there.

Q. Did he participate in that organization, or take any part?

A. I do not think he did.

Q. Or express any opinion?

A. No, sir; I do not remember.

Q. Was that caucus called exclusively of the anti-Pomeroy men?

A. Yes, sir; that is my understanding.

By the CHAIRMAN:

Q. He was admitted in that caucus?

A. The only time I remember seeing him there was about the organization of the caucus.

Q. What was Dr. Rohrbacher expelled from the legislature for?

A. Because he was illegally elected. There were frauds shown in his election by the testimony.

By Mr. VICKERS:

Q. Showing that he was fraudulently elected?

A. Yes, sir.

By Mr. BUCKINGHAM:

Q. Was it an expulsion?

A. Yes, sir.

Q. Was he expelled because he was not elected in consequence of fraudulent counting of votes, or something of that kind?

A. Yes, sir.

By Mr. VICKERS:

Q. Was it bribery?

A. No, sir.

By Mr. BUCKINGHAM:

Q. Did the resolution direct his expulsion or declare that he was not elected?

A. It declared that he was not elected.

Q. Then it was not an expulsion?

A. No, sir; not an expulsion.

By Mr. VICKERS:

Q. Was it for altering the returns or falsifying the returns in some way?

A. That is my understanding.

By the CHAIRMAN:

Q. Falsifying returns?

A. Yes, sir.

By Mr. HORTON:

Q. Give the name of the gentleman that succeeded him.

A. I do not know.

Q. Was it not a gentleman they called Judge Miller?

A. I know that he was named Miller, but I do not know his given name.

Q. Do you say to the committee, now, that you do not understand how Mr. Miller stood upon the senatorial matter?

A. I understood that he was for Mr. Pomeroy.

TUESDAY, *February* 19, 1873.

WILLIAM H. BOND sworn and examined.

The CHAIRMAN. This witness, Mr. Simpson, is offered under the same offer of yours to connect with Mr. Pomeroy?

Mr. SIMPSON. Yes, sir.

By the CHAIRMAN:

Q. Are you a member of the Kansas legislature?

A. I am.

Q. Of which house?

A. The lower house.

Q. From what county?

A. Leavenworth County.

Q. Do you know anything of any bribery, or offer to bribe, on the part of Mr. Pomeroy in reference to the senatorial election? If so, state it.

A. Not by himself individually.

Q. State the offer; it has been stated by the counsel of Mr. York that he would connect your statement with Mr. Pomeroy.

A. I went to Topeka before the legislature met, and went up in the interest particularly of Dr. Logan, or at least was a friend of his in the fight, he coming from the same ward I did in Leavenworth. I made the very best fight I could for Dr. Logan. Part of our delegation were inclined to go for Mr. Pomeroy, and two or three of them did vote for him on the first ballot. They were very solicitous of getting my vote also, my name being called first on the roll of the delegation from our county in the house. A friend of mine came up from Leavenworth and said he had seen Mr. Pomeroy, and Mr. Pomeroy wanted me to vote for him; and this gentleman was also from my ward. I told him that of course I could not vote for Mr. Pomeroy; that my people expected me, and I intended, to vote for Dr. Logan and stand by him. The next day—I think it was Thursday, but I am not certain as to the date—he came to me again and——

Mr. HORTON. Give the name.

The WITNESS. John J. Murphy was the gentleman. He said that he had seen Mr. Pomeroy, and that Mr. Pomeroy wanted me to vote for him; and that he had had a talk with Mr. Pomeroy, and that Mr. Pomeroy had said to him that if I would vote for him he would pay me anything in reason; and he was very anxious that I should go and see Mr. Pomeroy. He said that he knew my condition financially, and knew that a little money was a good deal to me; and, said he, "You can have $5,000 just as well as 5 cents;" and wanted me, on Friday night, at 12 o'clock, to go with him and see Senator Pomeroy. I did not go. On Saturday, I think, at the solicitation of a friend of mine—that was the Saturday before the vote was taken—I did go in to see Mr. Pomeroy. He and I had a short conversation. He had sent for me several times; at least my friends had said he wanted to see me. I went in and had a talk with him, and I told him very clearly that I could not vote for him. He went on to say that I ought to be on the winning side anyhow, and put his own case in the best shape he could. I told him it did not make any difference; I could not vote for him; I was for Dr. Logan. He said that I should not make a bitter fight against him as I had been doing, or something of the kind; and said that I was a young man, and that I ought to look out for myself, and ought to place myself on the winning side, and thought it would be advisable for me to do so. I told him that of course I should like to be on the winning side in the senatorial fight, but that my people expected me to support Dr. Logan, and I could not do anything else; that if I did I would break faith with them; and that I would not do anything dishonorable in that way under any circumstances, and he said that he did not want me to do anything dishonorable, but that he would like mighty well to have my vote. That was the only interview I think I ever had with Senator Pomeroy. I spoke to him several times on passing him.

The morning of the joint convention I came to the Tefft House. The Tefft House was the general headquarters.

By the CHAIRMAN:

Q. That was Wednesday morning?

A. Yes, sir; Wednesday morning. It was the general headquarters for both Pomeroy and anti-Pomeroy men. The candidates were all stopping there, and the house was more than full. I came there, I think, about 9 o'clock. I went into room 110, I think—I believe that is the number of Judge Johnson's room—and was in there. I guess it must have been after ten o'clock when I got to the hotel. I started up town at nine, and got to the hotel about ten. I staid there, I guess, till about eleven o'clock, in rooms 110 and 107, back and forth among the anti-Pomeroy rooms; and when I came out there were some men there from Leavenworth, some of them Pomeroy men and some anti-Pomeroy men—the majority of them, though, were Pomeroy men—and they said they had been hunting for me, wanted to see me, and wanted me to go up stairs with them; they wanted to talk with me. I went up stairs with them into the hall, and there were probably twenty-five or thirty of them there, and they insisted that I vote for Mr. Pomeroy, and made such an urgent demand on me that I got vexed at it, and told them they must let me alone; that I would vote as I pleased; that I believed them all to be interested parties, and they could not mold my sentiments; that I did not believe they had the sentiments of the people, and I should support Dr. Logan, and would not vote for Mr. Pomeroy. I left them, and went up stairs to Dr. Logan's room. I had been there but a few moments when some one called me out—I forget now who. When I got into the hall, Mr. Horton

was in the hall. He said he wanted to see me a few moments. They had been annoying me a good deal all through the canvass, and I told him I had been annoyed when down stairs, and did not want them to annoy me any more. Mr. Horton said he did not want to annoy me, but had a few words to say; it would not take him more than five minutes to say what he wanted to say, and he wanted me to go with him. We went along, I think, to about the third door on the right-hand side of the hall. He opened the door and he went in, and whoever was with us left; when I stepped into the door this other party left, and Mr. Horton locked the door. I sat down on the side of the bed. He got a chair and came and sat right in front of me—he was acquainted with me—and he told me, "I understand your condition; I know how you are fixed financially, and I know that you have had a good deal of trouble in your family; you have lost one of your children lately; and you are in need. Now, you have a family to support, and that is paramount to everything else; and I would advise you as a friend," (and I believe he is a friend of mine,) "to take care of yourself." He said to me that it was not worth while to mince matters; that my name came first on the list of delegates from Leavenworth County, and that they were very desirous of having my vote. He said that he knew that I knew that my vote would probably carry others with it; I do not exactly remember the words. He then said that what they gave me, if they gave me anything, it was understood was to be in the way of expenses; and said, "Now, just name your amount," or "what you want, and we will go down into Mr. Pomeroy's room and fix it up immediately," and he took out his watch; it was then, I think, 20 minutes to 12. He said, "We have not but about 20 minutes to do this business in; but we will go right down into Mr. Pomeroy's room." I got right up and unlocked the door, and told Mr. Horton I had some other business to attend to, that I wanted to see my brother, and that I did not have time to see Mr. Pomeroy then. I then went up to the Capitol House, went into the water-closet, and staid there till the house was called to order, and did not see any of them.

By Mr. VICKERS:

Q. When Mr. Murphy mentioned to you that you could get $5,000 as well as 5 cents for your vote, did you express any feeling of indignation?

A. No, sir; I did not. I considered the source.

Q. Did you look upon it as a business transaction?

A. I looked upon it as coming from a friend. He thought I was in need, and would like to make the money, but he did not care much whom I voted for, though he came from my ward, and I paid but little attention to it. I had been approached by a good many others in the same way.

Q. When Mr. Horton mentioned the subject to you, did you resent it at all?

A. No, sir; not in any offensive manner. Mr. Horton is a friend of mine and I am of his.

Q. You told him you had some other business down stairs?

A. Yes, sir; I think I gave him no satisfaction, and he did not ask for any. I do not know but I told him I would see him again, or something of that kind.

Q. In the interview which you say you had with Mr. Pomeroy, did you allude to the conversation of Mr. Murphy when he had offered you money?

A. No, sir; I did not say anything about it. I do not think I talked with Mr. Pomeroy more than ten or fifteen minutes.

Q. Did Mr. Pomeroy offer you any consideration to vote for him, either directly or indirectly?

A. He did not.

Q. His advice to you was as a young man and a young politician to get on the strong side—that it would be better for you?

A. Yes, sir.

By Mr. HORTON:

Q. What was your business prior to being elected a member of the legislature?

A. I was deputy United States marshal.

Q. Were you an active deputy; I mean, did you continue in charge of the business all the while?

A. The same as any other deputy, excepting one. There is one other deputy who is employed continually.

Q. When did you resign that position of deputy marshal?

A. The position of deputy marshal was resigned I do not remember when.

Q. Tell when.

A. I cannot tell you. I do not remember when it was. I was speaking with Mr. Houston about it, and there was no formal resignation at all.

Q. Tell about when it was.

A. It seems to me that it was about the election time. I do not remember whether it was after or before. It may have been after.

By the CHAIRMAN:

Q. The last election, in November?

A. Yes, sir.

By Mr. HORTON:

Q. Do you know C. J. Hanks, of Leavenworth?

A. Yes, sir.

Q. Is he a friend of yours?

A. Yes, sir.

Q. Intimate with you?

A. Tolerably so.

Q. Does he reside in the same city with you?

A. He does.

Q. State to this committee whether or not you authorized C. J. Hanks to send a dispatch to me at Atchison, or to some friend of Mr. Pomeroy's at Atchison, asking money to be furnished you for your election expenses.

A. I did not.

Q. Did you pay for any such dispatch?

A. I did not.

Q. Do you not know such a dispatch was sent and a refusal was had?

A. I do not.

Q. Do you not know that a refusal was had about furnishing money for your election expenses on the part of the friends of Mr. Pomeroy?

A. I do not.

Q. After you were elected in the city of Leavenworth, did you not state to me that such a dispatch had been sent, but that some other friends had furnished you some money?

A. No, sir; I think not. I know I did not.

Q. In substance?

A. No; I know I did not.

Q. Did we have any conversation in Leavenworth about your election expenses?

A. I do not know that we did. I do not remember. I did have with Colonel Houston; I was in the office at the time. Colonel Houston knew my circumstances. Nobody expected that I would be elected. I came from a ward where I was the first republican ever elected to the legislature. Nobody expected that I would be elected when I ran, and consequently there was no interest taken by Colonel Houston, who was a warm supporter of Mr. Pomeroy's, and a personal friend of mine; yet he had no idea that I could be elected, and took no interest in it. After the election was over, several days afterward, we talked about it. I had had a good deal of sickness in my family, and trouble, and Mr. Houston knew my position, financially; and he said I had got through with that, talking over the election, and I forget now whether he asked me whether I had run behind, or whether I said to him I had got through, but was considerably behind in paying up my accounts.

Q. I do not care about the conversation with Mr. Houston. I ask you did you not have a conversation with me at Leavenworth in regard to a dispatch being sent to Atchison, to the friends of Mr. Pomeroy, and our refusal to furnish you any money, or anything about that?

A. I do not remember anything about it.

Q. Do you recollect having any conversation with me at all about it?

A. I had several conversations with you, but I do not recollect having any conversation with you about any money business in regard to the election.

Q. You never heard about Mr. Hanks sending a dispatch for money for you?

A. Not for me. Mr. Hanks came to me and said he had got $300 from Mr. Pomeroy for Harry Fields, in our district, and said to me, "You can have your expenses paid if you want to," or something to that effect, and I told him that I did not like that kind of business, or to place myself in any position of that kind; that the people expected me to support Doctor Logan, and I could not ask Mr. Pomeroy to pay his expenses. He said to me that he had got $300 for Harry Fields's election, and he thought he could get $300 for me. I did not talk a great deal with Mr. Hanks because he is a man I do not place a great deal of confidence it. I was going to state about Mr. Houston if you had not stopped me.

Q. Was not the United States court in session at Leavenworth right after the election?

A. I believe the court was in session at the time, or probably a day or two afterward.

Q. Did it not adjourn over the day of election and then sit all the rest of the week?

A. I believe it did.

Q. During that time did you not come to me and speak about a dispatch being sent to Atchison for funds, and that you got elected without getting the money from them?

A. I do not remember.

Q. Anything about it?

A. I do not remember a word of it.

Q. Do you recollect any conversation between you and me?

A. We had several conversations—we were in court all the time—but not about money transactions. I do not remember any such thing with you.

Q. At what time do you say that you and I had a conversation in which I wanted you to vote for Mr. Pomeroy?

A. That was the last conversation.

Q. What time was it?

A. About half past 11 o'clock.

Q. On what day?

A. On Wednesday.

Q. Was that after or before the first vote had been taken?

A. After the first vote had been taken. The first vote was taken on Tuesday; this was on Wednesday morning, I think, about 11 or half past 11 o'clock.

Q. Did you see me on Tuesday afternoon before that, after the first vote had been taken?

A. I saw you nearly every day; in fact three or four times a day.

Q. And talked to me?

A. I do not remember. I talked with a great many.

Q. Do you recollect you and Mr. Plummer talking to me?

A. Yes, sir.

Q. Did you not state to me in the presence of various parties on Tuesday afternoon, before you say this conversation occurred, that now you had made up your mind to vote for Mr. Pomeroy?

A. I did not.

Q. State what you said.

A. I did not say anything of that kind, but I suppose you inferred it from what I did say—you and Mr. Houston both—that I would vote for Pomeroy. It was at the earnest solicitation of——

Q. Then, upon Tuesday, before this conversation that you have spoken of occurred, you stated sufficient to me to make me infer that you would vote for Mr. Pomeroy?

A. You rather inferred so, you and Mr. Houston both, but you did not know it.

Q. Was not Mr. Plummer with you?

A. Yes, sir.

Q. Did not Mr. Plummer say about the same thing?

A. Something similar.

Q. That was before this statement which you say I made as to desiring your vote?

A. This was on Tuesday afternoon that you refer to now.

Q. And at that time you gave me information from which I inferred that you were going to vote for Mr. Pomeroy?

A. Yes, sir.

Q. Have you seen General McDonald since you have been in the city?

A. No, sir.

Q. Do you know Mr. Joyce?

A. I do.

Q. State to this committee whether or not, prior to Wednesday morning, you told General McDonald and Mr. Joyce, or either of them, that you expected to vote for Mr. Pomeroy?

A. I told them that I rather expected I would vote for Mr. Pomeroy, but I did not tell them I would.

Q. That was before this conversation between you and me?

A. Yes, sir.

Q. Then, at the time of the conversation which you say occurred between you and me, you had given myself, Colonel Houston, General McDonald, and Mr. Joyce, information to lead us to believe that you would probably vote for Mr. Pomeroy?

A. That I would possibly vote for Mr. Pomeroy.

Q. Between that time and Wednesday morning had you signed any paper to vote for any one else?

A. I had not; I did not see the paper; but Mr. Houston came to my house in the morning before I had left my breakfast, after me, showing that neither you nor Mr. Houston believed I would vote for Mr. Pomeroy. Mr. Houston came to my house that morning before I left my breakfast.

Q. But you had told me, or led me to believe, that you would vote for Mr. Pomeroy. Why do you say that I did not believe you would?

A. I did not tell you that I would. I did not give you to understand positively that I would.

Q. State the conversation between you and General McDonald and Mr. Joyce about that.

A. I had several conversations with General McDonald and Mr. Joyce. I told General McDonald on every occasion that I had come there to support Dr. Logan, and would do so. He said to me it was all right for me to go right on and support him. I forget, now, his exact conversation, but there was nothing in it particularly. He did not seem to be overly anxious to draw me away from my resolution to stand by Mr. Logan against Mr. Pomeroy. He said he was a friend of Mr. Pomeroy and a friend of mine also.

Q. Let me have an emphatic answer. Did you not state to General McDonald, in the city of Topeka, or North Topeka, positively, before the morning that you say I had the interview with you, that you would vote for Mr. Pomeroy on the second ballot?

A. No, sir.

Q. Nor words to the effect to make him believe that you would?

A. No, sir; Mr. McDonald did not think so, for he went up to the capitol with me on Wednesday morning.

Q. I am not asking what you think, but your words. You say you did use language to make him infer that you would?

A. That I might; Mr. Plummer, and myself, also.

Q. You say Mr. Murphy spoke to you about it?

A. Yes, sir.

Q. Who is Mr. Murphy?

A. He is councilman from my ward, in the city of Leavenworth.

Q. Do you know whether he was there in the interest of Mr. Pomeroy?

A. He was not, I do not think. He did not go there in the interest of Mr. Pomeroy, but after he got there he seemed——

Q. Did he profess to have any authority from Mr. Pomeroy to pay you anything?

A. He did not pretend nor offer to pay me anything himself; but said if I would go with him to Mr. Pomeroy, Mr. Pomeroy had told him that he would pay me.

Q. What kind of man is this Murphy that you speak about? Is he not a drinking man?

A. He drinks somewhat; but he is a pretty respectable man. He has been in the council four years, and if he was not a pretty fair man I do not think he could be elected by the people.

Q. You did not go with him to Mr. Pomeroy?

A. I did not.

Q. Do you profess to say to this committee that he had any authority in any shape or form from Pomeroy?

A. Not at all.

Q. Do you say to the committee that he ever told you he had authority?

A. I said he never offered money; he was giving me Mr. Pomeroy's word, as I understood, that if I would go with him to Mr. Pomeroy I should receive the money.

Q. Did he say Mr. Pomeroy told him that?

A. I think he did. I know he did.

Q. Where was he stopping?

A. At the Tefft House, I think. I think he told me Mr. Pomeroy paid his expenses, or that his expenses were paid.

Q. Did Mr. Pomeroy ever say to you that either I or Mr. Murphy had any authority to offer you any money?

A. He did not.

Q. Do you profess to say to this committee that we had any such authority?

A. I do not, in the least. I just give your statements exactly as I remember them, no more.

Q. Is it not true that we refused to furnish you any money?

A. No, sir.

Q. And that you were mad about it?

A. No, sir.

Q. After the senatorial election was over how did you regard me—as a friend or an enemy?

A. As a friend.

Q. If I had made any criminal or wrong proposition to you, how could you regard me as a friend?

A. Well, I do not know. I always considered you a friend, and have always been a friend of yours.

Q. And you say now that I made a proposition of that kind and you still consider me your friend?

A. Yes, sir.

Q. Did you not come to me after the senatorial election and ask me to aid you in obtaining an office?

A. I said something to you about it. You came to me in the Tefft House, and it was remarked by a good many present that you had come and sat down on a trunk and talked with me, and they asked me what made you so friendly with me, that it was not your usual way to associate with everybody; that there were members of the house you had hardly spoken to except on business, but you came and sat down and talked with me for an hour. They asked what was between us that we were so friendly. You refer to our friendship. I have considered you a friend for several years and do now, though you made that proposition and were working in the interest of Mr. Pomeroy. I considered you a friend of Mr. Pomeroy and of mine, too. You speak of my coming to you in the Tefft House——

Q. No; I asked you if after the election was over you did not ask me to aid you?

A. I did ask you; but you said I had come to you. I wanted to place the thing in a little different light.

Q. Go on and state what occurred.

A. It does not make any difference.

Q. Go on and state it.

A. You came to me in the Tefft House, and sat down on a trunk—I was sitting by the door—and talked with me there a good while. Among other things, you told me that you had sent in your resignation, that you and Senator Ingalls were going into partnership to start a law

firm together, that you would assist me in anything I wanted, and asked me if I was looking for anything. I told you I did not know but what I would; that anything would be acceptable, under the circumstances; and you said that you would assist me, said you felt friendly toward me, and would assist me in anything you could. I think you talked with me very nearly an hour, and I think there were half a dozen men, after you went out, who asked me what there was between you and me that you wanted to cover up, if you were trying to fix me up what to say.

By Mr. THURMAN:

Q. Was that before or after the senatorial election?

A. After the election.

By Mr. HORTON:

Q. Was it unusual for me to speak to you?

A. No; but it was said it was unusual for you to speak to members.

Q. Was there anything unusual in my talk that night?

A. No; but it looked so to others; several spoke to me about it.

Q. But as to you there was nothing unusual or different than my former habit with you?

A. No, sir; so far as my having any ill-feeling toward you or at you for making the proposition you did to me, there was none.

Q. But it is true that before that conversation occurred, you say you led me to believe that you would vote for Mr. Pomeroy?

A. Mr. Plummer and I in our conversation said something to that effect, that we might vote for Mr. Pomeroy. The impression was that Mr. Pomeroy had fixed himself so that he was going to be elected anyhow, and we concluded if he was going to be elected——

Q. Did you not state to me, in Colonel Hoke's presence—did you not voluntarily come up on Tuesday afternoon and say to me that now the thing seemed to be settled; that you and Mr. Plummer thought you would vote for Mr. Pomeroy?

A. I may have said something of that kind.

Q. And that was before any of this conversation which you say occurred between you and me?

A. Yes, sir; that was Tuesday. The conversation between you and me was Wednesday.

Q. Was there any conversation between yourself and me after that time up to that next morning?

A. No, sir; none at all.

Q. Had you ever told me you had changed your mind?

A. No, sir; it was not necessary.

By Mr. VICKERS:

Q. What motive or object had you in your statements to Mr. Horton to induce him to believe that you would vote for Mr. Pomeroy?

A. I will just tell you. Our county unfortunately has been on the losing side always, or nearly always, in the senatorial fights. Our county fought Senator Lane all the way through, and he fought the city and county in return for it. Tuesday afternoon it seemed to be evident to the minds of almost everybody there that Senator Pomeroy was going to be elected. There were, I suppose, forty or fifty Leavenworth men in Topeka, men of capital who were there, most of them, or many of this number, fighting Mr. Pomeroy. He had a great many friends, too, from Leavenworth, but there were forty or fifty, or twenty-five or thirty leading Leavenworth men there opposed to Mr. Pomeroy.

They came to me on Tuesday afternoon about the time I had the conversation with Mr. Horton and said to me, "It seems to us that Pomeroy has got this thing in his own hands, and that he is bound to be elected. If you see that he is going to be elected, that we cannot help it, we want you to vote for him; not that we expect to make anything particularly by it; but if he is bound to be elected, we want to cast the vote of Leavenworth for him." I objected, but they insisted on my so voting. They were men of capital, most of them, and they said to me, "Here you need not say that you are going to vote for Pomeroy at all, but hold yourself in such position that if there is a chance to beat him you can vote against him, and yet we would like to have you say to his friends or to him, if it becomes necessary, something to lead him to believe that you will support him, and then if he is going to be elected you can vote for him on the joint ballot." That was how I came to say what I did to Mr. Horton and to Mr. Houston and others.

By Mr. ALCORN:

Q. Did you agree to do that?

A. Yes, sir; and I think I spoke to Mr. Horton and to Mr. Houston, and I do not know but that I may have done it to somebody else. There were a good many of Mr. Pomeroy's friends around. I may have said to them, not positively, that I would vote for Mr. Pomeroy, but that I might vote for him; or that I could vote for Mr. Pomeroy, or something of that kind; that Mr. Logan was out of the way.

Q. You sought to induce his friends to believe that you would vote for him?

A. That I might vote for him.

Q. You were trying to climb both sides of the sapling at the same time?

A. Not exactly that; but we were trying to beat Mr. Pomeroy, if we could. The people were desirous, if it possibly could be done, to beat him; but they thought Mr. Pomeroy had got the thing into such a shape that he was going to be elected anyhow.

By Mr. SIMPSON:

Q. Who is this Mr. Houston that you have been talking about?

A. He is United States marshal.

Q. Was he there in attendance at the senatorial election?

A. He was.

Q. In whose interest?

A. In the interest of Mr. Pomeroy.

Q. This McDonald that you talk about, who is he?

A. Supervisor of internal revenue for the district.

Q. For what district?

A. I do not know whether it is the district of Missouri, or what it is; I know his district embraces Missouri, Kansas, and Arkansas, and some of the Territories, I think. I do not know the name of his district.

Q. Was he there in attendance upon the senatorial election?

A. He was for a few days.

Q. In whose interest was he?

A. I think he was in the interest of Mr. Pomeroy, though he did not say a great deal. I do not think he talked to many members but myself. I do not think he was acquainted with anybody but myself.

Q. That was the interview you had with General McDonald that you stated awhile ago?

A. I do not remember. I talked with General McDonald about it

half a dozen times, I guess. He and I are personal friends, and we talked the matter over frequently.

Q. I do not want the interviews detailed; but state whether or not you said to General McDonald that you would vote for Mr. Pomeroy?

A. I did not; I do not think that General McDonald ever understood it so, either, for he went with me up to the capitol that morning, and was talking about it.

Q. How did the interview that you spoke of having had with Judge Horton about eleven o'clock on Wednesday forenoon, occur?

A. They were very anxious——

Q. Just state if you sought that interview with Judge Horton.

A. I did not.

Q. Did he seek it with you?

A. He did. I went up into Dr. Logan's room, but they came to the room and called me out, and insisted on having a talk.

Q. Who did that?

A. I forgot now who it was that came to the door and called me out; there were so many after me that I forget. Judge Horton was at the door, and took hold of me or said he wanted to have a few moments' talk with me; he knew that I was worried, that they had annoyed me to death, and he did not want to bother me any further; but he had a few words to say.

Q. Where did you go?

A. We went along the hall to about the third door.

Q. Into whose room?

A. I do not know.

Q. Do you recollect the number of the room?

A. I do not; I did not notice.

Q. Who was in the room at the time you went there?

A. Nobody. Whoever it was went out when we went in, and Mr. Horton locked the door and I sat down on the bed.

Q. How did the interview commence—who commenced the conversation?

A. He did.

Q. What did he say?

A. He said that they were very desirous of having my vote.

WEDNESDAY, *February* 19, 1873.

B. O. DRISCOLL sworn and examined.

The CHAIRMAN, (to Mr. Simpson.) Do you propose by this witness to prove bribery on the part of Mr. Pomeroy?

Mr. SIMPSON. I propose to prove offers made to this witness.

The CHAIRMAN. And do you propose afterward to connect them with Mr. Pomeroy?

Mr. SIMPSON. To prove general facts tending to show connection with Mr. Pomeroy.

The CHAIRMAN. We will hear the testimony. [To the witness.] Are you a member of the legislature of Kansas?

The WITNESS. I am.

Question. From what county?

Answer. Doniphan County.

Q. In which branch of the legislature?

A. The house.

Q. State anything you know in reference to the matter pending before the committee.

A. Well, sir, I was approached very often in many ways; I think four times in a financial way; but the first gentleman who approached me did it so well and so neatly that if he was to deny it——

The CHAIRMAN. State the facts, if you please.

The WITNESS. I did not desire to name him, if I could help it.

The CHAIRMAN. State all the facts, names and all.

The WITNESS. Mr. Asa Lowe, of my county, was very solicitous that I should vote for Mr. Pomeroy, and in his conversation he told me that it would be of a great deal of advantage to him; that he expected to get some appointment in a land-office; and that I could help him a great deal. I told him that I would do anything in the world, in reason, to help him, because he had been a friend to me when friends were needed; but that was one thing which I could not possibly do; that I was elected in opposition to Mr. Pomeroy, and proposed to carry out my open pledges made, but anything in reason that I could do, I would. He still persisted, and intimated to me that $2,000 would not break him, and he would stand between me and my constituency; but I told him that it was likely he would so stand, but it was possible he might get out of the way on some occasion, and the people would see me, and he would excuse me if I would refuse, or words to that effect. I think that is as near his language as I now remember; and again, some week or two afterwards, he insisted—this was in the fore part of the session; and a few days before the election he again met me, and said that he would stand between me and my constituency if it took $2,000. He did not say he would give it to me, understand, but he left the inference that I might lead off in that direction if I so desired; but I never let on that I understood him.

The next gentleman who approached me in a financial way was——

By Mr. THURMAN:

Q. Before you proceed to that, allow me to ask you, when did the session commence?

A. On the 14th of January. There were fourteen days that this pressure existed around the Tefft House.

Mr. THURMAN. Now go on.

The WITNESS. The next gentleman who approached me came to me at night. His name was David Paine. He tapped me on the hand as I was at the front door of the Tefft House, and took me out in the street and told me that there was money in Topeka to be used liberally, and that I could get it if I desired it. I told him I did not desire it. Well, he said, it was Government money, or money that had been stolen from the Government, as he stated it, and that I had just as well have it as anybody else; it would be given to me without any pledges whatever, and that after I had had it three or four days another gentleman would come to me and ask me to do them a favor, and I could either do it or let it alone. I rather felt hurt at the manner; it was broad, and I rather thought it was humiliating to me, and I talked to him some time my reasons. I made it a point never to leave a friend of Mr. Pomeroy in doubt as to my intentions; it mattered not one stick how they approached me. I told him that it was utterly impossible; that no amount of money in Topeka could influence me; that I had promised unequivocally, and I would certainly perform as I had promised.

Q. (By Mr. THURMAN.) That you had promised your constituents?

A. Yes, sir. Then he begged me not to say anything about it, and I

tried to keep this thing. I went to my room at night and told Mr. Searcy these facts, and I went to Mr. McWhirt's room on another occasion. Searcy and I roomed together. I told each of them that I felt more humiliated to-night than I ever had in my life; that a man came to buy my vote, and I was humbled. McWhirt remarked, "O, that is nothing; I would not mind that. A man asked me if I could use $1,000 or $1,200 to advantage." McWhirt is a very wealthy man. When I spoke to Mr. Searcy—I think it was that night—he told me that a man had offered him $1,600.

Mr. THURMAN. That is hardly evidence.

The WITNESS. That is about the sum and substance of what passed between Mr. Paine and me. The next gentleman was a friend of Mr. Pomeroy, who came down from Atchison. He is a member of the city council of Atchison. His name is Hoke; his given name I do not remember. He came to me and was very solicitous that I should vote for Mr. Pomeroy; asked me to go into his room before I knew what his intentions were. In there, he began to press me in reference to the matter. I told him I could not possibly do it; that I had made those pledges publicly, and that I could not go home before my people and look a man in the face if I did so; that I had said that no combination of circumstances could influence me, and this would be one of the combinations. He told me that there would be a petition there from my constituency, a delegation, and that I could use that as a reason, and vote for Mr. Pomeroy with the approval of my constituency. I differed with him about it. I told him I could not do it. Then, said he, "Business is business; just say how much money you will take." That is the only time I got any way angry, and I remarked to Mr. Hoke that he was not the first one of Mr. Pomeroy's strikers who had approached me in that way, and I would have him to know that Mr. Pomeroy never saw money enough to buy me. I was a little angry about it, and, after talking a little time with him, I got up and left him. In a short time afterward another gentleman approached me. He came into my room, followed me in the room, slapped me on the knee, and said, "I liked the way you talked at the Tefft House." His name was Paddy Brown, from Atchison, a man of wealth and good standing. He remarked that he was pleased at the way I had talked in the front room of the Tefft House. I had there declared, just as I had always spoken when a man had asked me if I could not support Mr. Pomeroy. I would state my reasons so that I left no man in doubt. He followed me into my room, and, after tapping me on the knee, remarked, "I like the way you spoke there. Now, I will be here to-morrow, and I will have money, and you can get the money, and you might just as well have it as not, and I would advise you to take it." Then I made up my mind that I would take the money and go into the room in the Tefft House, and expose him, but I said nothing. I looked at the man, and did not say yea or nay, as I now remember. He did all the talking. I walked out of the room. I bowed my head. That night I told Mr. Searcy again all the circumstances of the case, and I remarked, "Now the die is cast; $50,000 comes to-morrow, and you and I will be rich, or there will be a fuss in Topeka." To-morrow came. I attended to my business, never went to the right or to the left; but I did not see Mr. Brown. He did not approach me, and I think that was the night that our anti-Pomeroy caucus was pretty successful. The next day he came to me in the room and slapped me on the knee, and remarked, "I had not the money yesterday, but I am prepared for business to-day." Said I, "Mr. Brown,

do not show me any money; if you had approached me yesterday, I would have been ruined and you would have been ruined." Said I, "I slept none last night thinking of this thing; and I see that I would have been utterly used up; my word would not have stood against your denial, and the chances of the case would have been too bad against me. I have saved myself, and you will excuse me from touching or seeing any of your money. I think you have not treated me as a gentleman should treat me. You knew me well, and I do not like the manner in which you have treated me." I talked to him about half an hour, and gave him my opinion of the treatment I was having, which was pretty strong, to him; and he remarked to me, "I have now a good deal that I borrowed; but I believe you are right." I think that was about his remark. I saw no money. While I was in conversation, Mr. Searcy came into the room. He is a member of the legislature. As Mr. Brown was going out, he asked me to keep all this secret. Said I, "I will do so; but there is one condition: you must go and tell Mr. Pomeroy and his strikers to keep off me, for if another man approaches me financially, I will trumpet it forth to the world;" and no man, from that on, hinted money to me. That is about the sum and substance, as near as I can relate it, in a few words, of what passed between me and those gentlemen.

Q. Who was the first man that approached you?

A. Asa Lowe, of Doniphan County.

Q. How long had he been at Topeka

A. He was there from about the 13th. I think he came there with me.

Q. Was he a member of the assembly?

A. No, sir.

Q. Do you know what his business at Topeka was?

A. He was there as a lobby member for Mr. Pomeroy.

Q. Did you ever see any intercourse between him and Mr. Pomeroy?

A. He asked me, the first day, to go up into Mr. Pomeroy's room; and took me up there. I told him of course I would like to see Mr. Pomeroy; I had not seen him for a great many years, and I would go up; I was not afraid to look at any one; but we met Mr. Pomeroy in the hall, and he introduced me in the hall; but I still did not get a good sight at Mr. Pomeroy; it was rather late.

Q. Do you know anything about the terms of intimacy upon which he and Mr. Pomeroy stood?

A. Only from what I could see and hear around there. I did not see him and Mr. Pomeroy only on that occasion. He introduced me as a special friend. He seemed to be very familiar.

Q. How far is his home from Mr. Pomeroy's home?

A. If Mr. Pomeroy's home is in Atchison, he lives about eight miles.

Q. In the same county?

A. No, in Doniphan. His farm and mine adjoin.

Q. What county is Atchison in?

A. Atchison County.

Q. Who was the next man?

A. David Paine.

Q. Was he a member of the legislature?

A. No, sir.

Q. How long did he spend at Topeka?

A. He was there when I got there, and I left him there when I came here.

Q. What was he doing there; what was his business?

A. He seemed to be a lobby member.

Q. What was he lobbying about?

A. From all that I know, I believe that he was in the senatorial contest.

Q. I do not ask what you heard from others, but what you know yourself?

A. From what I know myself, he was there only as a lobby member, udging from what he said to me, &c.

Q. Lobbying for what?

A. I understood him for United States Senator, and I took it to be Mr. Pomeroy, though I was about to state awhile ago that he told me that night, when he left me, this money might be sent me by a gentleman from Lawrence. I will call his name now. He is a brother of the gentleman at the White House, here; it is not Hancock, but something like that—Babcock; yes, Mr. Babcock.

Q. Did you ever see this gentleman and Mr. Pomeroy together?

A. I did not. I did not go into Mr. Pomeroy's room, and I do not know that I ever saw Mr. Pomeroy with any other gentleman that I now remember except Mr. Lowe, and myself, and Mr. Pomeroy, when I was introduced to him.

Q. Do you know anything of what terms of intimacy there were between Mr. Paine and Mr. Pomeroy?

A. I do not.

Q. Do you know how long they have been acquainted?

A. I cannot say that, either; but Mr. Paine, I understand, is an old acquaintance, and he used to live in our county.

Q. Who is the next man?

A. Hoke.

Q. What was his business at Topeka?

A. He came down there a few days before the senatorial election expressly as a lobby member from Atchison.

Q. What was he lobbying for?

A. For Senator Pomeroy's election.

Q. What is his occupation?

A. Lumber merchant, I think, in Atchison.

Q. Do you know anything of the relations between him and Mr. Pomeroy?

A. I do not; I was introduced to Mr. Hoke; I had done some business for him before, and knew him by reputation very well; but personally we had never been acquainted until he came to Topeka on that occasion.

Q. Did you ever see him and Mr. Pomeroy together?

A. I do not think I did.

Q. Who was the next man you mentioned?

A. Mr. Brown.

Q. Where does he live?

A. In Atchison.

Q. The same town as Mr. Pomeroy?

A. Yes, sir.

Q. What was his business at Topeka?

A. He was there as a lobby member.

Q. For what?

A. He asked me to vote for Mr. Pomeroy.

Q. Do you know of his being there to lobby for anything else?

A. I do not.

Q. What is his occupation?

A. He is a contractor on a railroad generally; a money-loaner sometimes.

Q. Do you know anything in regard to the personal relations between him and Mr. Pomeroy?

A. I do not.

Q. Did you ever see them together?

A. Not that I remember; as I stated, I do not remember seeing Mr. Pomeroy only the one time, and that was when Mr. Lowe introduced me; I kept to myself as much as possible.

Q. Have you gone through all of them now?

A. I believe I have given you the substance.

By Mr. HORTON:

Q. Did either one of these gentlemen tell you that he had any authority from Mr. Pomeroy to offer you money?

A. I do not think any of them did.

Q. Do you say that David Payne was a friend of Mr. Pomeroy?

A. I so understood.

Q. Do you say that his expenses there were paid by Mr. Pomeroy at all?

A. I have said nothing about that; I do not know who paid the expenses.

Q. Was he not there a candidate for the position of door-keeper or some little office at the hands of the legislature?

A. I heard nothing of the kind.

Q. Is he not now the door-keeper of the investigating committee there?

A. He is; and he heard my testimony before that committee, and helped to alter it to suit himself.

Q. He is now door-keeper?

A. He is door-keeper of the investigating committee.

Q. Is he not the person who made an affidavit against Mr. Pomeroy?

A. He is—that is, they say he is. I did not see the affidavit.

Q. Did he not tell you so?

A. He told me that he made the affidavit.

Q. Do you say he was the friend of Mr. Pomeroy?

A. He said so at that time; I supposed he was when he came there; at least that is the way I understood it. I do not say that he was, for he was careful to let me know that Mr. Babcock might have sent that money.

Q. Do you anything about any money?

A. Not at all. I saw no money.

Q. You mentioned the name of Mr. Hoke; what are the politics of Mr. Hoke?

A. I cannot say.

Q. Are you not acquainted with him?

A. I was introduced to him at the Tefft House.

Q. Do you not know that he is an influential and active democrat in Atchison?

A. It is likely he is.

Q. Do you not know it?

A. I do not.

Q. How far do you live from Atchison?

A. Eight miles.

Q. Do you know anything at all about Atchison politics?

A. I know them somewhat. I know that some of the active and influential democrats of Atchison County were there requesting my vote for Mr. Pomeroy.

Q. I am asking you as to the politics of Mr. Hoke.
A. I cannot answer politically.
Q. Do you not know?
A. I do not.
Q. Do you know the politics of Mr. Brown?
A. I think he is a democrat, or a liberal republican now.
Q. Do you know anything about a meeting having been called in Atchison to send some democrats or liberal republicans to Topeka to favor the election of John M. Price?
A. I do not; I think Mr. Price told me that he could get it.
Q. Did you not hear that a meeting had been held and a committee sent from Atchison to favor the election of Mr. Price as against Mr. Pomeroy?
A. I rather think that Mr. Price himself told me something about that.
Q. Were not Mr. Hoke and Mr. Brown members of that committee?
A. I do not know; they talked for Mr. Pomeroy alone.
Q. Will you say that they were not members of that committee?
A. I will not say anything about it; I will only tell what they said to me.
Q. Did Mr. Lowe make any statement that he had any authority to use money directly or indirectly at the instance of Mr. Pomeroy?
A. No, sir. As I stated before, I would not state that Mr. Lowe did intend to use the money. It was so genteelly put that he could not be caught if he denied it.
Q. I do not care now whether he intended to use it or not; but I ask you did he profess to have any authority, directly or indirectly, from Mr. Pomeroy to use money or any other thing for your vote?
A. I cannot say that he professed anything of the kind.
Q. Did Mr. Paine profess to you to have any authority from Mr. Pomeroy to use money in any way for your vote?
A. Yes, sir; he said he had authority, and he could hand me the money; no, I am not sure that he said he could do it; but he said that he had authority to negotiate with me, and the money would be handed me, and then I might vote as I pleased.
Q. Did Mr. Hoke say that he had any authority from Mr. Pomeroy to furnish you any money or any other thing?
A. No, sir; he did not say that he had authority.
Q. Did Mr. J. P. Brown say that he had authority from Mr. Pomeroy?
A. I do not think he did.
Q. Do you know, of your own knowledge, whether any of these men had any authority from Mr. Pomeroy to seek you at all?
A. No, sir, I do not.
Q. Had you learned from Mr. Pomeroy that any of these men had authority to seek you, or procure your vote?
A. Certainly not; I never spoke to Mr. Pomeroy but the one time.
Q. Then I understand that you personally have no knowledge that Mr. Pomeroy directly, or indirectly, attempted to secure your vote by improper means?
A. Personally I have not.
Q. You have no such knowledge?
A. Only just as I have stated.

By the CHAIRMAN:

Q. Did you say that Brown told you he could get the money the next day?
A. Brown said he could come to me the next day.

Q. Did he say he had any authority from Mr. Pomeroy?

A. I do not think he said from Mr. Pomeroy; but he came to me and said: "I have the money, and am now ready for business;" and he proposed to pay me what he had, and to leave the balance in the hands of any gentleman I should suggest.

By Mr. HORTON:

Q. Did you say that Mr. Paine said he had authority from Mr. Pomeroy?

A. No; I have not said so.

Q. You will not say that he was there at the invitation, or upon the expense, of Mr. Pomeroy?

A. Not at all; I do not know how he was there; I did not ask.

Q. And he is now an officer in the legislature—that is, a door-keeper of one of the committees?

A. He is a door-keeper.

Q. And he is one of the parties that made the charge against Mr. Pomeroy?

A. I so understand it from his statement to me.

By Mr. SIMPSON:

Q. How long have you known Mr. Lowe?

A. Fifteen years or more.

Q. How close have you resided to him during that time?

A. Our farms adjoin now; but we have lived within a mile or so of each other for many years.

Q. State whether or not you know that during the last ten or twelve years he has been the intimate personal and political friend of Mr. Pomeroy?

A. He has been so considered, and from his own language I have so considered him, and he was very solicitous that Mr. Pomeroy should be elected.

Q. Has he held any public position in the State?

A. Yes, sir. He has been either register or receiver at a land-office, and also mail-agent for Kansas, Nebraska, and I think, probably, Missouri.

Q. When did he occupy these positions?

A. I cannot tell exactly when he was register or receiver.

Q. Has it been within the last six or seven years?

A. I think it was about that time that he left the land-office, and he has been within the last three or four years mail-agent.

Q. What is Mr. Brown's name, of whom you spoke as Paddy?

A. J. P.; James Patrick, I think; and we call him Paddy for short.

Q. How long have you known Mr. Brown?

A. I have known him for five or six years.

Q. Where does he reside?

A. In the town of Atchison.

Q. How long has he resided there?

A. I cannot say, but I think some time before I knew him.

Q. At the time Mr. Brown had the conversation with you, did he state to you that he was a friend of Mr. Pomeroy?

A. I do not know that he stated it at that time, but I understood it was some little time before.

Q. Mr. Pomeroy did not have as many friends after the election as he had before, did he?

A. I suppose not.

Q. What are your politics?

A. I was always a democrat until I joined the liberal republican party under the lead of Mr. Greeley.

By Mr. HORTON:

Q. In what service were you during the war?

A. I was in the confederate service; no, I will not say that either; I was in the service of the State of Missouri.

Mr. THURMAN. That is an inquiry that there is no necessity for going into.

Mr. HORTON. I did not intend to ask about that, but the witness was speaking about Mr. Lowe being in a public office, and I asked him what service in order to call his attention to Mr. Lowe's position. I understood the witness to state that Mr. Lowe occupied a public position.

Mr. THURMAN. I thought you were asking about the witness's service.

The WITNESS. I understood him to ask what service I was in. That was the plain English of it as I understood it.

Mr. HORTON. The question I desire to come to is this: Were you in Doniphan during the time Mr. Lowe held a public office as register?

The WITNESS. I was not. I stated that a while ago.

Q. (By Mr. HORTON.) Did he hold a Federal office as register or receiver within the past seven years?

A. I stated a while ago that I thought not.

Q. Has he held the office of mail-agent within the past two years?

A. I think it was about two years ago that he was superseded.

Q. Do you know whether he was appointed at the instance of Mr. Pomeroy or of Sidney Clarke?

A. I cannot state.

Q. Then you do not know when Mr. Lowe was a register of the land-office? You were not in Doniphan County at the time and do not know anything about it?

A. Only from rumor and what he stated to me himself.

By Mr. BUCKINGHAM:

Q. You say you met Mr. Pomeroy once or twice during the canvass?

A. Once.

Q. Did he make any suggestions to you that you could receive money, or any other consideration, for your vote?

A. Never, the least.

Q. You say you had an offer of money with the privilege of voting as you pleased?

A. Yes, sir.

Q. How could you regard that as an attempt to bribe you to vote for Mr. Pomeroy?

A. I cannot say that I regarded it exactly in that light; but I would not take it, and even vote the way I wanted to vote.

By Mr. HORTON:

Q. Was Mr. Lowe, the gentleman you have spoken about, your opponent for the position of member of the legislature?

A. He was.

Q. You ran against him?

A. Yes, sir.

Q. You were the successful candidate?

A. Yes, sir.

Q. Was not the Mr. Paine, of whom you have spoken, a candidate for State senator?

A. I do not know, but I heard something of that sort.
Q. Do you know Senator Murdock by reputation?
A. I know him.
Q. Was he an enthusiastic Pomeroy man or not?
A. I cannot say, indeed.
Q. Do you know whether he voted for Mr. Pomeroy?
A. I have the impression that he did, but I do not know.
Q. Did not Mr. D. L. Paine run against Mr. Murdock for the position of State senator; and was not Mr. Paine beaten and Mr. Murdock elected?
A. I certainly cannot say. I know Mr. Paine was beaten by some one; but whether by Mr. Murdock I do not know.
Q. Does not Paine live at Wichita?
A. He stated that he did.
Q. Does not Mr. Murdock live there?
A. I think so, but I do not know.
Q. Mr. Murdock was elected, and Mr. Paine, as you understand, was defeated?
A. I understand so.

MONDAY, *February* 24, 1873.

WILLIAM SIMPSON sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?
Answer. In Bourbon County, Kansas.
Q. Are you a member of the legislature of Kansas?
A. I am.
Q. Of which house?
A. The senate.
Q. If you have any statement to make in reference to bribery or offers of bribes by Mr. Pomeroy in connection with the senatorial election, state it.
A. I do not know that I have any particular statement to make, any more than I met Mr. Pomeroy frequently during the campaign, perhaps every other day, on an average, from the time of the convening of the legislature until the senatorial vote was taken on Wednesday, the 29th of January. On the night of the 28th of January, Mr. Pomeroy made a proposition to me in relation to keeping a delegate here that I was helping as a settler upon the neutral lands to sustain in Washington.
Q. State what Mr. Pomeroy said to you.
A. He asked how Mr. Loughlin, the delegate, was getting on.
Q. Where was this conversation?
A. In Mr. Pomeroy's room in the Tefft House.

By Mr. THURMAN:

Q. Loughlin was the delegate of the settlers on the neutral lands?
A. Yes, sir.

By Mr. HORTON:

Q. Their delegate in this city?
A. Yes, sir.

By Mr. THURMAN:

Q. What did he say about it?

A. I told him that he was doing tolerably well, but that he had written to me in relation to money matters; Mr. Pomeroy told me he was a friend of Mr. Laughlin's, and wished to be considered a friend to us, the settlers upon those lands; he said that Mr. Laughlin had never said anything to him about needing money; I told him that probably the situation was different; that he had written to me in relation to it as I was treasurer of the committee which furnished him money, and then Mr. Pomeroy made a proposition.

Q. Go on and state exactly what it was.

A. The proposition was that if I would vote for him as United States Senator he would take the expenses of Mr. Laughlin off the hands of the settlers on the neutral lands.

Q. That was on the night of the 28th, you say?

A. On the night of the 28th of January; the joint ballot was on the 29th; it was the night after the first vote was taken.

Q. Go on.

A. He wanted me to give him my hand on that proposition.

Q. What do you mean by "giving him your hand;" to put it in writing?

A. No, sir; he just reached out his hand and said, "Give me your hand on that;" then said I, "You will expect me to vote for you?" said he, "Certainly;" said I, "I cannot do it."

Q. The settlers had sent Mr. Laughlan here as a delegate, as you call him, as their agent to look after their interests for several sessions of Congress?

A. Yes, sir; for four sessions.

Q. The settlers on what are called the neutral lands?

A. Yes, sir.

Q. And they had paid his expenses here?

A. Yes, sir.

Q. And you say the proposition of Mr. Pomeroy was, that if you would vote for him he would pay Mr. Laughlin's expenses?

A. He would take his entire expenses off our hands. His words were: "You may turn him over to me, and I will support him. I will see that you are at no more expense on him while he remains in Washington."

Q. But you told him you would not agree to that. What then took place?

A. The conversation very summarily ended.

Q. Who was present at that conversation?

A. No one but Mr. Pomeroy and myself, that I could see in the room.

Q. At what time of night was it?

A. It was between 8 and 9 o'clock.

Q. At his room in the Tefft House?

A. Yes, sir.

Q. Do you know anything more of the matters that are under investigation? If you do, state it.

A. I do not know that I do, of my own knowledge.

By Mr. VICKERS:

Q. How came you into Mr. Pomeroy's room on the 28th of January, at night?

A. I had been going to see Mr. Pomeroy very frequently in relation to the passage of a bill that was in the Senate of the United States for the relief of those settlers whom I represented in the senate of the State

of Kansas, and I went to see whether the bill had passed, or whether or not there could be any influences brought to bear so as to have it passed, even in his absence.

Q. What were the expenses of Mr. Laughlin stated to be? Was any amount mentioned?

A. Not any.

By MR. HORTON:

Q. You say no offer was made to you by Mr. Pomeroy to pay you anything?

A. No, sir.

Q. Was there anything said about the sum of fifty dollars being given to Mr. Loughlin as a contribution?

A. Not to me.

Q. State whether you introduced the subject or made any statement to Mr. Pomeroy about Mr. Loughlin needing money to support him here as a delegate.

A. I did, after he asked me how Mr. Loughlin was getting along.

Q. State what you said.

A. I said that Mr. Loughlin had written to me in relation to money matters since I had been in Topeka.

Q. What did you say further about his condition here?

A. I said that he needed money.

Q. Did you intimate the amount?

A. No, sir.

Q. Was anything said about the amount?

A. No, sir.

Q. Was anything said about parties contributing money for his support here?

A. No, sir.

Q. Did you state to Mr. Pomeroy that the way he was supported here was by contributions from the settlers?

A. I did not state that to him at that time.

Q. Is not that the fact?

A. It is.

Q. Did you not state to Mr. Pomeroy that he ought to contribute something to his support as the rest of the settlers did, if he was a friend of theirs?

A. I did not make any such statement.

Q. Nothing of that kind?

A. Nothing of that kind.

Q. Did you say anything to Mr. Pomeroy about how much Mr. Loughlin had with him when he wrote you?

A. If I did, I do not remember the amount that I said.

Q. Did you say that Mr. Loughlin needed more money and had only $2.50, and that you would have to send him some contributions, or anything of that substance?

A. I do not remember saying that he had only two dollars and a half; I remember saying that he needed money.

By the CHAIRMAN:

Q. Was it the fact that he only had two dollars and a half?

A. I do not remember, now, whether that was correct or not.

By Mr. HORTON:

Q. Why did you say to Mr. Pomeroy that Mr. Loughlin needed money?

A. In answer to the question of Mr. Pomeroy how Mr. Loughlin was getting along.

Q. How did that refer to money?

A. Well, it referred not only to his health, as I understood it, but to all his way of getting along.

Q. In answer to that question, did you not say that you had just got a letter from Mr. Loughlin; that he only had two dollars and a half: that he needed some contribution immediately?

A. I do not think I named the specific sum that Mr. Loughlin had.

Q. Had Mr. Loughlin written you that he had very little money left?

A. I said to Mr. Pomeroy that he had but little money, as I remember it. That was in answer to the question how he was getting along. If I may state further, he had also asked me in relation to Mr. Loughlin's opinion of the senatorial contest.

Q. You went to the room of Mr. Pomeroy at your own instance that night?

A. I did.

Q. Did he send for you that night?

A. He did not.

Q. And you say that he made no offer to pay you any money for your vote?

A. He did not, any more than if I would vote for him he would support Mr. Loughlin.

Q. Mr. Loughlin was here for the benefit of the settlers on the neutral lands?

A. Mr. Loughlin was here for that purpose.

Q. Where do those settlers reside?

A. They reside upon the neutral lands in the State of Kansas, in Crawford and Cherokee Counties, and in a part of Bourbon.

By Mr. THURMAN:

Q. Are you one of the settlers?

A. I am.

MONDAY, *February* 24, 1873.

W. M. MATHENY sworn and examined.

By the CHAIRMAN:

Question. Are you a member of the Kansas legislature?

Answer. Yes, sir.

Q. Of which house?

A. The senate.

Q. If you have any statement to make in reference to the matter before the committee, make it in your own way, as directly as possible.

A. I do not know that I can make any statement except in response to interrogatories.

The CHAIRMAN. Then let Mr. Simpson ask the questions. He knows what you are called for.

By Mr. SIMPSON:

Q. State if you know M. W. Reynolds.

A. I know him.

Q. Was he at Topeka during the senatorial contest?

A. He was.

Q. State what he was doing there, and in whose interest he was, if you know.

A. I only know, from what I observed, that he was there as a friend of Mr. Pomeroy, and, from what he said, using his influence and exertions for the re-election of Mr. Pomeroy to the United States Senate.

Q. Does he occupy any public position there?

A. He does.

Q. What is it?

A. He is either register or receiver; I think receiver of the land-office, at Independence, Kansas.

Q. State if you had a conversation with Mr. Reynolds there, upon the subject of York's voting for Mr. Pomeroy?

A. I had.

Q. State when that conversation was.

A. That conversation was on Tuesday, in the afternoon, after the first ballot was cast for Senator in the houses separately—the evening before the joint ballot was taken. The day of the month was the 28th of January, I believe.

Q. Do you recollect what time in the evening this conversation was?

A. As to the hour, I think it was between five and six o'clock. It was just before dark—just as I was starting to supper in my boarding-house; I was in the Tefft House; Mr. Reynolds hailed me and asked me to have a conversation with him, and I stopped and we talked a while, just before I started for my supper.

Q. State what that conversation was.

A. Mr. Reynolds told me that the thing was all fixed; that the old man, as he called Mr. Pomeroy, was going to be elected, and he wanted me to go along with them; that they wanted us all to go together. Mr. Pomeroy, he said, was a friend of mine and he knew I was a friend of his, but my people were opposed to his election in the first place; but in the second place he thought it would be very acceptable to them, and advised me in various modes and various ways to support him. I told him that I had voted for the favorite of the people of my section of country, Judge Lowe, and I expected to do so again on the next day. He said that that was throwing away my vote and it would not do any good to my people down there. He wanted to have Mr. Pomeroy in as a friend; he was going to be elected. I am not giving exactly the words, of course, but the substance of the conversation. I told him that, first of all, that would have no influence particularly with me; and in the next place I did not believe he was going to be elected; I thought he was going to be defeated. He then remarked, "I can tell you something that will make you believe he is going to be elected." I asked him what it was. He wanted to know if I would tell it if he told me. I said if he asked me not to say anything about it, I should not. He said, "Mr. York is going to vote for Pomeroy." I remarked to him that I did not believe that; in other words, I used the expression, "I believe that is a lie, Milt.;" but it was in a good-natured way I spoke it. I had been acquainted with him for a good while. He remarked, "I knew you would believe that is a lie; but it is so." I asked him then if Mr. York had been bought by the promise of office. He says, "Not by the promise of office; but he is ours, and he will vote to-morrow for Mr. Pomeroy." There were a good many other expressions used between him and myself, I doubting the fact and denying it, asserting that I did not think York was a man who could be bought and sold, from what I heard of him. He satisfied me, however, that he had been bought, so much so that I immediately went to a friend and made a statement of

the facts and told him that we must be up and doing or this thing was gone; that if York voted for Pomeroy he was elected sure. I was perfectly convinced from what Reynolds had told me that he had been bought.

Mr. THURMAN. The question is not what you are convinced, but what Mr. Reynolds said.

Mr. SIMPSON. Give the substance of the conversation.

The WITNESS. There was so much said that I cannot exactly give his words.

By Mr. THURMAN:

Q. Have you given the substance of his conversation?

A. I have given the substance of his conversation.

Q. Had Mr. York been active against Mr. Pomeroy before that time?

A. Very active.

Q. Do you know of any connection, whatever, between Mr. Reynolds and Mr. Pomeroy?

A. None, except that I knew Mr. Reynolds was very friendly and favorable to Mr. Pomeroy, and had taken me in to see Mr. Pomeroy on two occasions, and had talked to me time and again, soliciting my influence and vote for Mr. Pomeroy in the legislature.

Q. Had he taken you to see Mr. Pomeroy during this canvass?

A. Yes, sir; I went to Mr. Pomeroy's room twice, and both times in company with Mr. Reynolds, at his solicitation.

Q. Do you know anything more about it?

A. In response to questions I might answer more.

By Mr. SIMPSON:

Q. State whether or not you were either directly or indirectly approached and offers made to you to vote for Mr. Pomeroy?

A. Never; by Mr. Pomeroy.

Q. By any one else?

The CHAIRMAN, (to Mr. Simpson.) Do you intend to connect that with Mr. Pomeroy?

Mr. SIMPSON. By circumstances, simply.

The WITNESS. I can tell you the circumstances if the committee think it has a bearing. I do not know that it has.

Mr. THURMAN. Go on and state it, and if it is not right we will rule it out.

The WITNESS. On the same evening, and I believe immediately after this conversation with Mr. Reynolds, a gentleman came to me who had talked with me two or three times before.

By Mr. THURMAN:

Q. Who was he?

A. His name is Dean S. Kelly, formerly a resident of Kansas City, and now residing in Lacine, Kansas; and he asked an interview with me at his room. I went to his room——

By Mr. SIMPSON:

Q. Where was that room?

A. In the Tefft House. I do not remember the number—on the second or third floor. I went with him. We had a conversation. He endeavored to pursuade me that it was to my interest, as well as other people, to vote for Mr. Pomeroy—to re-elect him. Discussing the matter, I, of course, told him that I could not; that I was not a Pomeroy man, and had not been. He owned some property in the town of Baxter Springs, in which I reside.

He turned the conversation very suddenly, and asked me what I thought that piece of property was worth. I being very well acquainted with the property—in fact, I had assisted him in the purchase of it two or three years before—remarked to him that I supposed it was worth about $1,500. He said to me, "If you will vote for Mr. Pomeroy you can have that for $25." I laughed at him, and said, "Kelly, I thought you knew me better than to bait me with such a small hook," and told him I did not want his property at any price.

By Mr. THURMAN:

Q. Do you know of any connection between Kelly and Pomeroy?

A. Mr. Kelly disowned being known in connection with Mr. Pomeroy. Why he did it, or upon what authority, he never stated to me.

Q. How long had Mr. Kelly been there?

A. He had been there, I suppose, about a week; hardly a week, but several days. He had seen me and called at my room several days before that.

Q. What was his business there at Topeka?

A. I do not know.

Q. What is his occupation?

A. He is a lawyer by profession, but I think he is now engaged in speculating in real estate in Lacine.

Q. Where did he live at that time?

A. In Lacine, Kansas.

Q. Do you know whether he was acquainted with Mr. Pomeroy or not?

A. He told me that he was acquainted with Mr. Pomeroy, but he said that nobody there knew it.

Q. Had he appeared to be taking any part in that election?

A. I had never seen him take any part or participate in connection with anybody except what he said himself to me.

Q. It rests then wholly on his own statement to you?

A. That is all.

By Mr. VICKERS:

Q. Did you promise Mr. Reynolds not to mention the subject of the conversation in reference to Mr. York?

A. I promised him in this way: he remarked to me, "I can tell you something that will make you believe that Mr. Pomeroy is going to be elected." He did not call him Mr. Pomeroy but called him the "old man" all the time. He said the old man would be elected. "Very well," said I. Then said he, "If you promise not to say anything about it now, I can tell you." Said I "Certainly; if you ask me not to tell it, I shall not repeat it." I did not repeat it and never have done so until this time, particularly; but I went to a friend and told him that I had very reliable authority and from a friend of Mr. Pomeroy, a statement of the fact that Mr. York had been bought; but I did not tell him who told me nor did I give him the name or the substance of the conversation particularly.

Q. You gave him the substance without the name?

A. The substance of what I had ascertained without the name.

By Mr. HORTON:

Q. You say that Mr. Kelly disowned having any connection with Mr. Pomeroy to you?

A. Yes, sir; he did. He disclaimed any connection with Mr. Pomeroy.

Q. Did he stop at the Tefft House at all, of your own knowlege?

A. All I know about it is that he asked me to his room, and I went up. We went into a room where there was a fire, a bed, and conveniences. He appeared to be at home. Whether it was his room or not I do not know. I was never in the room before or since.

Q. You say he did not pretend to have any authority from Mr. Pomeroy to act for him?

A. He did not pretend to have any authority from Mr. Pomeroy.

Q. Then, of your own knowledge, or from anything that you learned from Mr. Kelly, was any offer made to you by Mr. Kelly for your vote at the instance or request of Mr. Pomeroy?

A. I cannot say that there was.

Q. Did Mr. Reynolds use the words that Mr. York had been paid any money?

A. I do not think he used exactly those words.

Q. Did he use the words that Mr. York had been bought?

A. He only used it in a negative way.

Q. I am asking not for inferences, but did he use that language?

A. Exactly and directly, he did not.

Q. All that you judged from is that his language was such as to infer it, I understand you?

A. Yes, sir; I came to the conclusion very readily.

Q. State over again that conversation with Reynolds, so far as is material, what he said?

A. The substance of it was about this: that he was attempting to induce me to vote for Mr. Pomeroy.

Q. Come to the portion where Mr. York came in?

A. When we got to that point he said, "York is going to vote for the old man to-morrow," and I, rather in a good-humored way said, "Milt, that's a lie." He remarked, "I knew you would think that was a lie, but I can tell you something that will make you believe it," or "that will convince you," and he went on.

Q. What did he say then?

A. It is almost impossible for me to repeat the exact words, there was so much said. We talked there for half an hour. I think I asked him the next question, that is according to my memory now; I asked him the next question; I said, "Is York bought with the promise of office?" That was the first impression made on my mind. He said, "No; not with any promise of office."

Q. What other language did he use after that?

A. He went on to say, "You can depend on it that to-morrow York is ours, and is going to vote with us."

Q. Is that about the substance of the conversation?

A. That is the substance of the conversation.

Q. And it is from that that you make your inferences?

A. That was not all the conversation.

Q. Any other thing in regard to Mr. York?

A. I persisted that I did not think York was that kind of a man, but he insinuated and said so much that I became finally convinced that he was that kind of a man.

Q. I should like to have some of Mr. Reynolds's words rather than your inferences?

A. It is almost impossible to give the words under such circumstances. He would say one thing and I would reply, and it was back and forward, both of us talking sometimes. That is the substance of the conversation.

Q. Do you know anything about any conversation between Mr. Reynolds and Mr. Pomeroy about Mr. York?

A. No, sir.

Q. You do not know whether Mr. Reynolds had spoken to Mr. Pomroy about it or not?

A. Not at all.

Q. Had you not learned, or have you not learned since, that Mr. York had said on Saturday before that he would vote for Mr. Pomeroy?

A. No, sir; that was the first I ever heard of it.

Q. Since then?

A. No, sir.

Q. Have you been at Topeka during the investigation?

A. Not all the time.

Q. Have you ever read or heard of Mr. Edridge's testimony?

A. I have not read all of it; I was down in my county attending court a few days, week before last. I read the papers, but not strictly.

Q. Then, of your own knowledge, you do not know whether Mr. York had told Mr. Reynolds or other parties that he would vote for Mr. Pomeroy the night before this conversation?

A. No, sir; I never heard of it before. I heard it several times that night afterward from other sources.

Q. Describe this man Kelly.

A. Mr. Kelly is a small man, a little inclined to be heavy set; hair about an auburn color, and, I think, wears chin-whiskers; pretty round face; he wore at that time a low-crowned hat. He presents rather the appearance of a small man. He does not look much like a business man

Q. Will you say to the committee that it is not true that the anti-Pomeroy men had Mr. Kelly there for the purpose of making offers to get Mr. Pomeroy into trouble; in other words, do you know what party brought Mr. Kelly to Topeka?

A. I know nothing about that.

Q. From his own language or any one else's language?

A. From his own language I supposed he was there in the interest of Mr. Pomeroy.

Q. What did he say?

A. He offered to give me a piece of property worth $1,500 for $25, if I would vote for Pomeroy, which belonged to him, according to my knowledge of the facts.

Q. That is the only reason you know he was there in Pomeroy's interest?

A. That was not the only conversation we had. We had conversation before.

Q. He then disowned having any connection with Mr. Pomeroy?

A. He disowned that Mr. Pomeroy authorized him to do anything; but still he did propose to do something.

Q. But you do not know at whose instance he made these propositions?

A. No, sir. It might have been from the generosity of his own heart.

Q. Do you not know about the anti-Pomeroy men having met there to make such offers for the purpose of getting Mr. Pomeroy into trouble?

A. Never, to my knowledge.

By Mr. SIMPSON:

Q. In the course of that conversation tell whether or not Mr. Reynolds put his mouth to your ear and whispered to you.

A. Yes, sir; he did. That was the manner in which he conveyed this information.

Q. What was it he said at that time?

A. He said, "York is ours. He is going to vote" either "with us" or "for us, to-morrow." And then he went on, "I want you to vote on the right side," or "the winning side."

Q. When he said that he was not bought by office were there any other words used in that immediate connection that you now recollect?

A. I do not recollect anything more than I have said. That was in reply to my question. I asked, "Was he bought by promise of office?" He said, "No; not by promise of office." He put his mouth to my ear and whispered, "York is ours, and he will vote with us to-morrow. Now, you take my word as a friend." He used that several times, though, to take his word as a friend.

Q. Were you present at the various anti-Pomeroy caucuses?

A. I was present at every one, except the first one, that I knew of being held. No; there was one other after the meeting on Monday night; I was not present at the time that Mr. Clark was there. I was not well, and did not go out. Every other one, except the first preliminary caucus, though, I attended.

Q. State whether or not a committee was appointed at the meeting of one of those caucuses for the purpose of organization and management of the anti-Pomeroy side?

Mr. THURMAN. What bearing has that?

Mr. SIMPSON. I want to establish the fact that there was a committee of management, and to get the names of that committee, some of whom are here; and I desire to repel any insinuation that there was any arrangement on the part of the anti-Pomeroy men to do anything to compromise Mr. Pomeroy.

Mr. THURMAN. You had better wait until such evidence is given and then rebut it.

By Mr. HORTON:

Q. Is Mr. Reynolds's business in the same town with Mr. York?

A. The land-office of which he is receiver is in the same town with Mr. York, but he edits a paper at Parsons, in the adjoining county.

Q. But Mr. York resides where he carries on the duties of his office?

A. Yes, sir; in the same place.

Q. Then they are neighbors?

A. Yes, sir.

MONDAY, *February* 24, 1873.

EDWARD SEARCY sworn and examined.

By the CHAIRMAN:

Question. Are you a member of the Kansas legislature?

Answer. Yes, sir.

Q. Of which house?

A. The lower house.

Q. Do you know anything bearing on the question whether Mr. Pomeroy gave bribes or offered bribes to any member of the legislature of Kansas in reference to the senatorial election? If so, state what you know.

A. I do not know of his using money for the purpose of purchasing votes.

Q. Do you know of anybody doing it for him?
A. Not of my own knowledge.

By Mr. SIMPSON:

Q. Have you ever been offered by any person any money or other valuable consideration, as a member of the house of representatives of the State of Kansas, to vote for Mr. Pomeroy for Senator?
A. No, sir.
Q. By any person at all?
A. No, sir.
Q. Has no one approached you on that subject?
A. O, yes; a hundred of them, I guess. It seemed to be the order of the day. There were men running around there, I call them bummers, pretending to have money to buy votes for Tom, Dick, and Harry. I paid no attention to such men. I went there unpledged, and I told them when they approached me that I did not propose to pledge myself to them, as I had not done it to anybody else. There were rowdying men there who said they had money to buy votes.
Q. State if any person offered you any money to vote for Mr. Pomeroy for United States Senator.
A. I answered that question that there had not.
Q. No offers of that kind had been made to you?
A. No, sir.
Q. By any person?
A. No, sir.
Q. How had you been approached?
A. About the way that I state, a way that I did not pay much attention to; but I presume there were many men there who pretended to be in the interest of some one that had money to buy votes with, and all that kind of thing.
Q. What did they say in relation to it?
A. I never was offered any money by any of those.
Q. In what manner were you approached?
A. Some man—I do not know his name, and never saw him but once—asked me if I was a member of the house. I told him I was. He said he would like to speak with me.
Q. You did not know who he was?
A. I do not know his name.
Q. Never saw him before?
A. Never saw him before.
Q. Have you ever seen him since?
A. Never to speak to him. I saw him once in a crowd.
Q. Did you inquire as to who he was then?
A. I did; but there was no one convenient that knew him, and I did not press the inquiry. I did not want to know him particularly. He approached me in this way: he wanted to know if I could use some money in the canvass. I looked him in the face and asked him if he was a detective. He said he was not. He found that I suspected him, and went one way and I the other. That is the only time I was approached directly by anybody.
Q. That was the only time you were ever approached on the subject?
A. Yes, sir.

By Mr. HORTON:

Q. Mr. Simpson files a statement before this committee that he expected to prove by you that you received $600 from me. State if you ever received one dollar or one cent from me.

A. Never.

Q. Did I ever promise you, or offer to promise you, any money at all for your vote?

A. Nothing of the kind.

By Mr. SIMPSON:

Q. Did you ever have any interview with Judge Horton?

A. I met Judge Horton almost every day. I have been acquainted with the judge for twenty years.

Q. Did you ever have any private interview with him on the subject of the senatorial election?

A. Nothing that I know of. He remarked to me that he thought Mr. Pomeroy would be elected, or something to that effect.

Q. Never had any private interview with him?

A. No, sir.

Q. Never entered into one of the rooms of the Tefft House, and met him there?

A. I have been in the room where he was several times.

Q. And no proposition of any kind was made to you by him to vote for Mr. Pomeroy?

A. I have just answered that question. There never was, in any shape or form whatever.

MONDAY, *February* 24, 1873.

WILLIAM E. GUERIN sworn and examined.

By the CHAIRMAN:

Q. Are you a member of the Kansas legislature?

A. Yes, sir.

Q. Of the house or senate?

A. The senate.

Q. What position do you hold as to the Kansas investigating committee?

A. I am chairman of that committee.

Q. A committee appointed since the election or before?

A. Since the election.

Q. To investigate charges in reference to the senatorial election?

A. Yes, sir.

Q. As chairman of that committee, has any money been placed in your hands?

A. Yes, sir.

Q. By whom?

A. Lieutenant-Governor Stover was the witness who produced the money.

Q. What amount?

A. Seven thousand dollars.

Q. Do you know, of your own knowledge, where Lieutenant-Governor Stover got the money?

A. Yes, sir.

Q. State.

A. The money was handed to the secretary of the joint convention, Mr. Crowther, by Mr. York on the day of the vote for the election of United States Senator in joint convention. By a vote of that convention the money was turned over to Lieutenant Governor Stover, as president of the senate.

Q. And he handed it over to you?

A. He presented it to our committee, after which time it was deposited with the treasurer of the State, subject to the order of the committee.

Q. Can you state to us in what shape that money is?

A. Yes, sir; it is in one-thousand-dollar packages, six of which packages have a slip of paper around them. One package of a thousand dollars is loose.

Q. Has it been in your possession from the time it was handed to you by Lieutenant-Governor Stover?

A. It has been as a special deposit in the office of the treasurer of the State.

Q. And where is the money now?

A. I presume it is on the way here. It was expressed by the treasurer of the State to me at Washington. It probably will be here this afternoon.

By Mr. THURMAN:

Q. Was it sealed up when it was put in bank?

A. Yes, sir. The packages, I might say here, are just as they were presented to Lieutenant-Governor Stover in the joint convention. When they were before our committee they were not opened at all, but simply the ends of the bills counted.

By Mr. ALCORN:

Q. Did you take the numbers of the bills?

A. No, sir.

By Mr. SIMPSON:

Q. Are you acquainted with A. H. Horton?

A. I am.

Q. Was he present during the senatorial contest in Topeka?

A. I saw him there frequently.

Q. State, if you know, in whose interest he was there.

A. I supposed he was there in the interest of Mr. Pomeroy. He talked to me with reference to Mr. Pomeroy.

Q. Do you know what room he occupied in the Tefft House?

A. I think it was room 21, opposite Mr. Pomeroy's room, on the second floor.

Q. Did he have any talk with you in reference to the senatorial election?

A. Yes, sir.

Q. Whom did he advocate in that conversation as a candidate?

A. He advocated the interests of Mr. Pomeroy.

Q. State, if you know, whether or not he was one of the confidential advisers of Mr. Pomeroy.

A. I only know from his testimony before our committee, at which time I asked the question if he was one of the friends and confidential advisers of Mr. Pomeroy, and he answered in the affirmative.

Q. State whether or not he was constant in his attendance at the legislature, from the time of its meeting until after the senatorial election.

A. He may have been absent; I do not know about that. I saw him there frequently, perhaps every day or so; I would meet him in the hall or at meals during that time. I think, however, when I come to reflect, that in Mr. Horton's examination he testified that he had been

there during the entire senatorial campaign, and for a day or two previous, and for a day or two after.

By Mr. HORTON:

Q. You say that I had a talk with you about your supporting Mr. Pomeroy?

A. The matter of supporting Mr. Pomeroy came up in the course of the conversation.

Q. In that conversation did I use any improper motive, or offer, or language to you about securing your support?

A. No, sir.

Q. Did I place the re-election of Mr. Pomeroy entirely upon beneficial purposes to the State?

A. I think you did.

Q. Do you know of my, at any time during that senatorial contest, using any improper action or word?

A. I do not.

Q. Do you know of Mr. Pomeroy using any money, directly or indirectly, of your knowledge?

A. No, sir.

Q. Do you know of myself using any money, directly or indirectly?

A. No, sir, only as it has been given in evidence in our committee.

Q. Is there any witness before that committee who has testified, except Rohrbacher, that any money was paid or offered?

A. I do not recollect.

Mr. THURMAN, (to Mr. Horton.) Offered by you?

By Mr. HORTON. Offered by me? Has any witness so testified?

A. I do not think any has.

Q. Has any witness testified that Mr. Pomeroy offered any money to his knowledge?

A. None except Mr. York.

Q. You have been chairman of that investigating committee all the time, have you not?

A. Yes, sir.

By Mr. SIMPSON:

Q. Did Mr. Bond testify before your committee?

A. No, sir.

Q. His testimony was not taken there?

A. No, sir.

Q. Did Mr. Frank Bacon testify before your committee?

A. I do not think he did. I do not remember.

MONDAY, *February* 24, 1873.

DAVID L. PAYNE sworn and examined.

By Mr. SIMPSON:

Question. State where you reside.

Answer. I live in Harvey County, Kansas, near Newton.

Q. Were you in Topeka during the recent senatorial contest?

A. I was.

Q. State anything you know in relation to the use of money or offers of money made by Mr. Pomeroy to any member of the legislature to influence his vote.

A. I do not know, only what I got from others. A man came to me and said——

Mr. HORTON. Stop!

By Mr. THURMAN:

Q. Who was the man?

A. I believe his name was Kreitz—Captain Kreitz.

By Mr. SIMPSON:

Q. Of Jackson County?

A. I think he is of Jackson County, but I am not certain. I think he lives at Holton, but I am not sure.

Q. Do you know what county Holton is the county seat of?

A. Jackson, I think.

Q. Is he a small, dark-complexioned man?

A. Yes, sir.

The CHAIRMAN. Of course we cannot hear mere hearsay. If there is any way of connecting it with Mr. Pomeroy we will hear it. We will leave that to the counsel to say.

Mr. SIMPSON. I do not know anything about the statement.

The CHAIRMAN. You had better find out. If the counsel say they will connect it with Mr. Pomeroy, we will hear it.

Mr. THURMAN. We will hear it, subject to a motion to rule it out if the connection is not made.

Q. (By Mr. Simpson.) Did you make any offer to Mr. O'Driscoll, or any statement to him in reference to money?

A. I did.

Q. State what that was.

A. This man came to me and asked me if I was not well acquainted with O'Driscoll and Searcy. We commenced to talk about the senatorial canvass. I said that I knew them; I had lived in that county before. He asked me if I thought they could be got to vote for Mr. Pomeroy. I said to him that I did not know. I am not sure about his name or residence; I believe his name is Kreitz. He said to me finally——

Q. State to the committee what you said to Mr. O'Driscoll; that is the point.

Q. I stated to him that I was told he could have $1,000 for his vote. Mr. O'Driscoll seemed a little indignant at the matter. I told him—I said it reluctantly, having been a neighbor and friend of his—but said I to him, "The money is not offered in any good purpose, but I believe if I was you I would take it."

Q. When was this?

A. A few days before the senatorial campaign. I do not remember just how many.

Q. Do you mean before the election?

A. Before the first ballot, but the precise day I do not now remember.

Q. Were you authorized by Mr. Pomeroy to make an offer of that kind to Mr. O'Driscoll?

A. I was not.

Q. By whom were you authorized to make that offer to Mr. O'Driscoll?

A. By this man Kreitz.

By Mr. HORTON:

Q. Were you at Topeka in the interest of Mr. Pomeroy?

A. I was not.

Q. Were you there at his expense, or at his instance?

A. I was not.

Q. Did you have any authority from Mr. Pomeroy to make offers to any party?

A. I never was authorized by him.

Q. Were you advocating anybody else's election there?

A. I do not know that I did at that time.

Q. Was Mr. Babcock a candidate?

A. I heard he was a candidate, and that there were others. I do not know that I was advocating the interest of any special man. I felt very friendly toward Governor Harvey.

By Mr. VICKERS:

Q. Were you to receive anything for making these offers?

A. Nothing at all.

By Mr. HORTON:

Q. I understood you that Governor Harvey was a candidate for the Senate, and you felt friendly towards him?

A. Yes, sir. Other names too were used in the campaign.

By Mr. THURMAN:

Q. Do you know anything of any connection between this Captain Kreitz and Mr. Pomeroy?

A. I do not.

WASHINGTON, D. C., *Monday, February* 24, 1873.

ALEXANDER M. YORK recalled.

The WITNESS. Mr. Chairman, I see there is an inaccuracy in my testimony as reported in the printed report of the proceedings of this committee. In the last answer on the first printed page, I am made to say, "The next time I saw him to speak with him I saw him at the table—I boarded at the same hotel he did, and frequently saw him at his meals—and the next time I saw Mr. Pomeroy to speak to him was on Wednesday or Thursday of the week following, at night." The remark, "I boarded at the same hotel he did, and frequently saw him at his meals," was made by me in parenthesis. I meant to say that I saw him frequently at the table, but the next time I saw him to speak to him was at his room.

By the CHAIRMAN:

Q. How would you have it altered?

A. It should say "The next time I saw him to speak with him was on Wednesday or Thursday," &c.

The CHAIRMAN. That is exactly the way you are reported here.

The WITNESS. But these words I speak of should have been in parenthesis.

The CHAIRMAN. The punctuation here is the same as a parenthesis. There is no misunderstanding as to your testimony on that point. I remember it very well.

The WITNESS. On page 3, also, in answer to the question, "Tell what occurred," I am made to say, in the course of the answer, "I should judge we occupied somewhere near an hour and a half in that general conversation." I said, or meant to say, "Somewhere near half an hour."

WASHINGTON, D. C., *Monday, February* 24, 1873.

B. O. DRISCOLL recalled.

By Mr. HORTON:

Question. You were examined at Topeka prior to coming to Washington, were you not?

Answer. Yes, sir.

Q. All that I desire to ask you is, whether or not you stated before the committee there, that Mr. Payne stated to you that he had no authority from Mr. Pomeroy to make the offer?

A. I do not remember that. Allow me to make this statement in reference to my testimony given before that committee. I went through the whole testimony there just as I did before this committee, and they set down that that they considered pertinent to the question, but there was no short-hand reporter.

Q. One other question——

A. I wanted to say that I stated it there as I did here.

Q. Were you quite intimate with me—were we well acquainted?

A. I was well acquainted with you.

Q. You are a practicing attorney?

A. Yes, sir.

Q. How far did you live from my town?

A. About eight miles.

Q. You were as well acquainted with me as any of those gentlemen except Mr. Lowe?

A. Yes, sir; very well.

Q. Did I ever make to you any improper offer in any shape or form during that senatorial canvass?

A. Not at all. I have found a correction which I desire to make in my testimony on page 70. The question is asked, "Did Mr. Lowe make any statement that he had any authority to use money directly or indirectly at the instance of Mr. Pomeroy?" to which the answer appears, "As I stated before, I would not state that Mr. Lowe did intend to use money. It was so genteelly put that he could not be caught if he denied it." My meaning was, "It was so genteelly put that I would not say that he did, against his word;" but here it makes me say "he could not be caught." You all remember I never intimated anything of the kind, because I did not even wish to bring his name before the committee; but this looked like I had done so and presumed he was there to do something improper.

By the CHAIRMAN:

Q. You want to strike out the words "he could not be caught?"

A. Yes, sir; because that was foreign from my idea. If Mr. Lowe asserted that he did not intend anything of the kind I should believe him. There is one other correction on page 69, seven lines from the top. It reads, "As I stated, I do not remember of seeing Mr. Pomeroy only the one time." I meant, "in company with others;" but that is left out. I saw Mr. Pomeroy several times at table, but did not speak to him. It is in answer to the second question on that page.

By Mr. THURMAN:

Q. You want to insert, after the word "Pomeroy," the words "in company with others?"

A. Yes, sir.

By the CHAIRMAN:

Q. You say you saw him at the table?

A. But I meant to speak with him, or in conversation with him myself.

By Mr. THURMAN:

Q. You want to say, "I do not remember seeing Mr. Pomeroy, in company with others, to speak to him," &c.?

A. Yes, sir.

By the CHAIRMAN:

Q. Did you see him alone to speak to him?

A. No, sir. Also on page 67, line twelve, Mr. Brown is made to state, "I have now a good deal that I borrowed." That would intimate that he borrowed money; but that was not Mr. Brown's expression, as I stated; but it was, "I have borne a good deal." He was then replying to my remarks, rather angrily made, and says, "I have borne a good deal, and I believe you are right." He said nothing about borrowing at all.

By Mr. THURMAN:

Q. You wish to amend it by striking out "now a good deal that I borrowed," and insert "borne a good deal," so that it shall read, "I have borne a good deal?"

A. Yes, sir. On page 66, in the tenth line from the bottom, it says, "I walked out of the room." It should say, "He walked out of the room."

Q. The word "I" should be changed to "he?"

A. Yes, sir. On the same page, near the middle of the page, there are two or three lines that I would like to strike out as they are tautology, where I was talking very fast and was a little excited.

Q. What is the passage that you want to strike out?

A. "He came into my room, followed me in the room; slapped me on the knee and said, 'I like the way you talked at the Tefft House.'"

Q. You want to strike out that?

A. Yes, sir; other little inaccuracies I pass over.

Mr. HORTON. We were anxious to proceed with the evidence concerning Mr. York this morning at once, but Mr. Eldridge, an important witness on that point, will not be here this morning, and hence we will be compelled to introduce some other evidence before coming to that matter.

WASHINGTON, D. C., *Monday, February* 24, 1873.

C. J. HANKS sworn and examined.

The CHAIRMAN. As this is evidence in rebuttal of what has been introduced heretofore, and we have no intimation of what the witnesses are to prove, Mr. Horton will examine first, and the committee will follow him.

By Mr. HORTON:

Question. State your name, residence, and age.

Answer. C. J. Hanks; Leavenworth, Kansas; age, thirty-five years.

Q. Are you acquainted with W. H. Bond, a member of the legislature from the city of Leavenworth?

A. I am, sir.

Q. How long have you been acquainted with him?
A. Some four or five years.
Q. Previous to the election of the 5th of November last, state whether or no a dispatch was sent by you to me or to a friend of Mr. Pomeroy at Atchison, and the purport of that dispatch.
A. A dispatch was sent to a gentleman in Atchison the evening before the national election in November.
Q. About what was the substance of that dispatch?
A. To assist Mr. Bond, as he was a friend.
Q. At whose instance was that dispatch sent?
A. At Mr. Bond's.
Q. W. H. Bond?
A. W. H. Bond.
Q. State whether or no you said to Mr. Bond that you had got $300 for Harry Fields's election?
A. I never made any such statement.
Q. Or words to that effect?
A. No, sir.
Q. State whether or no you got any sum of money from Mr. Pomeroy or his friends for Harry Fields.
A. Never.
Q. At the time Mr. Bond desired you to send the dispatch to Atchison, state how he professed to be as regarded the re-election of Senator Pomeroy.
A. From his conversation I regarded him as a friend of Senator Pomeroy. There was not much said in regard to Mr. Pomeroy; I do not remember now what was said exactly.
Q. Were you at Topeka just prior to the senatorial election?
A. I was, sir.
Q. Mr. York says, or Mr. Johnson—Mr. York, I think—that George C. Crowther counted the money, the seven thousand dollars, and was pledged to secrecy, or gave a pledge to keep it quiet. Do you know George C. Crowther?
A. I do, sir.
Q. What office does he hold, or in what capacity is he acting?
A. He is secretary of the State senate.
Q. On the night before, or the morning of the joint convention, state what George Crowther—this party that is connected by Mr. York with this conspiracy—said to you.
A. He told me that Mr. Pomeroy was going to be defeated, and if I wanted to make some money, to take some bets; that he would furnish me money to make bets, and give me an interest in them.
Q. How much money did he say he had?
A. He said he had about four thousand dollars.

By Mr. THURMAN:

Q. Was that on the morning of the day of the joint convention?
A. That was Wednesday morning, about half-after nine.

By Mr. HORTON:

Q. What did you say?
A. I inquired of him how he knew he was going to be defeated. He said they had a job put up on "old Pom," which was going to win.
Q. In what city and when did this conversation take place?
A. It was on Wednesday morning, about half-after nine o'clock, in the senate chamber.

Q. Was this George Crowther the secretary of the senate?
A. Secretary of the State senate; yes, sir.
Q. The party referred to in this testimony?
A. Yes, sir.

By Mr. SIMPSON:

Q. How long did you state you had known Mr. Bond?
A. Four to five years.
Q. Do you live in the same ward with Mr. Bond?
A. No, sir; in the same city.
Q. Do you live in the same representative district with Mr. Bond?
A. No, sir.
Q. Did you have a conversation with Mr. Bond in reference to this dispatch, that you allege was sent the day before the election?
A. Yes, sir; the morning of the day before the election.
Q. When was this dispatch sent?
A. Between 4 and 5 o'clock in the evening.

By Mr. THURMAN:

Q. Was that the evening before the presidential election?
A. Yes, sir.

By Mr. HORTON:

Q. And the evening before Mr. Bond was elected?
A. Yes, sir.

By Mr. THURMAN:

Q. Has this dispatch been put in evidence?
Mr. HORTON. No, sir; I call attention to the testimony on page 58, in connection with this subject.

By Mr. SIMPSON:

Q. In what representative district do you live?
A. I do not know the number exactly; it is the third ward. Speaker Kellogg represents that district.
Q. You had a conversation with Mr. Bond in reference to this dispatch before you sent it?
A. I did.
Q. Whom was that dispatch directed to?
A. To Major Crowell.
Q. Who is Major Crowell?
A. Special mail-agent for Kansas.
Q. Where does he reside?
A. At Atchison.
Q. What was the dispatch?
A. The dispatch was, as near as I can remember, "Sustain Mr. Bond; he is a friend of ours." It was something of the kind; it was very brief.
Q. Was anything said about money in that dispatch?
A. No, sir.

By Mr. THURMAN:

Q. By whom was that dispatch signed?
A. I signed it.
Q. "Assist Mr. Bond; he is a friend of ours." Is that it?
A. Yes, sir.
Q. Were the members of the legislature elected the same day as the presidential electors?
A. Yes, sir.

By Mr. SIMPSON:

Q. Where was this conversation with Mr. Bond?

A. The last conversation I had with Mr. Bond——

Q. But the conversation which induced you to send this dispatch?

A. That was in front of Mr. Griswold's office, on Delaware street, on the corner of Fourth street.

Q. Was anybody present at the time?

A. I do not remember.

Q. What was the conversation you had with Mr. Bond?

A. Mr. Bond spoke to me in regard to the matter in the morning about sending the dispatch, and I had neglected to send it. He inquired in the evening if I had sent it, and he took out the money and said, "I will pay you for sending it, and send it. I will have a hard fight;" and he insisted on my going to the telegraph office and sending it, which I did. I told him I did'nt want his money.

Q. What was the object of sending that dispatch?

A. To get some money for Mr. Bond.

Q. From whom?

A. From Major Crowell.

Q. What for?

A. Mr. Bond said he wanted money to put in the election.

Q. Who were you operating for?

A. At that time?

Q. Yes, sir.

A. I was not for anybody in particular; I was friendly to Mr. Pomeroy.

Q. You desired Mr. Pomeroy and his friends to aid in the election of members of the legislature who were friendly to Mr. Pomeroy's re-election, was that it?

A. No, sir; not particularly.

Q. Why did you send this dispatch then?

A. I knew Mr. Crowell was a friend of Mr. Pomeroy, and we had talked frequently about the election.

Q. But why did you send that dispatch?

A. Because Mr. Bond wanted me to send it.

Q. Did you have any understanding before with Mr. Crowell that he would furnish money to aid the election of these members of the legislature?

A. Nothing positively.

Q. Any general understanding?

A. No, sir.

Q. Had you had any conversation with Mr. Crowell prior to that to lead you to believe that he would furnish money to aid in the election of members of the legislature?

A. No, sir; I think not.

Q. You had had no such conversation with Mr. Crowell.

A. No, sir.

Q. Then what you did in the matter was at the instance of Mr. Bond?

A. Yes, sir.

Q. When did Mr. Bond first have a conversation with you in reference to a dispatch to Mr. Crowell?

A. I think it was on the morning before the national election. Mr. Bond wanted to get some money, and I told him I thought I could get some for him from Major Crowell.

Q. What made you think so?

A. Mr. Crowell and I had had some talk in regard to the election, and were anxious to see a Pomeroy man elected there.

Q. Was that all the talk you had?

A. Yes, sir; we had no understanding about his furnishing money. I told Mr. Bond that if I only had the money I would let him have the money myself.

Q. Did Mr. Crowell say that at any time when money was wanted he could furnish it?

A. No, sir.

Q. Did he ever promise to aid members of the legislature, directly or indirectly?

A. Not that I know of. I never got any answer to that dispatch.

Q. This dispatch was sent at four or five o'clock in the afternoon?

A. Yes, sir; the day before the election.

Q. How far is it from Leavenworth to Atchison?

A. Twenty-odd miles.

Q. Did Mr. Bond state what he desired to do with the money?

A. No, sir.

Q. Not specially?

A. That he wanted to use it in the election; that the opposition were using money against him.

Q. Did you have any conversation with Mr. Bond in reference to Mr. Fields?

A. I never did.

Q. You never made any statement to Mr. Bond in reference to money having been furnished to Mr. Field to aid in his election?

A. I never did to anybody.

Q. You have no knowledge on that subject at all?

A. No, sir.

Q. Did you dispatch Major Crowell in reference to any other members of the legislature?

A. No, sir.

Q. You never sent him a dispatch in relation to any other member?

A. No, sir.

Q. You never made any application to him for any money for any purpose connected with the election?

A. No, sir.

Q. And you had no understanding with Mr. Crowell that he should furnish it?

A. No, sir.

Q. Was it the understanding between you and Mr. Bond that this aid you telegraphed for was money?

A. Yes, sir.

Q. Or assistance?

A. Yes, sir.

Q. What was the wording of the telegram as near as you can recollect it now?

A. I am not positive, but I think it was to assist Mr. Bond in the Fourth ward, as he is our friend, or something of that kind.

Q. Do you know whether or no Mr. Bond was making a canvass in the Fourth ward as an anti-Pomeroy man?

A. He was not making a canvass as an anti-Pomeroy man as I know of.

Q. Do you know whether the question of the re-election of Mr. Pomeroy entered into the election of members of the legislature in Kansas or not?

A. It did not in our town.

Q. Did it in your county?

A. I think not.

Q. Were you present at any public address made by candidates for the legislature upon either side?

A. I were, sir.

Q. Did you hear them take a position upon the senatorial question one way or the other?

A. I did not in our city. I was not outside of the city during the election or campaign.

Q. Did you hear Senator Moonlight make a speech, or Senator McWirt make a speech?

A. I did not.

Q. Did you hear Mr. Josiah Kellogg, the present speaker of the house, make a speech?

A. I did.

Q. Did he take any position on the senatorial question?

A. Not at all.

Q. Nothing was said in relation to the senatorial question in the county or city of Leavenworth in that canvass?

A. Not in our city; nothing was said in regard to it.

Q. What conversation did you have with Mr. Bond which induced you to believe he was favorable to Mr. Pomeroy's election?

A. It was the general understanding of the friends of Mr. Pomeroy that I talked with in Leavenworth that Mr. Bond was friendly to Mr. Pomeroy.

Q. That was the general understanding of Mr. Pomeroy's friends?

A. Yes, sir; Mr. Bond was deputy United States marshal, the same position that I held.

Q. And it was the general understanding?

A. Yes, sir.

Q. Did Mr. Bond in conversation with you ever tell you that he was favorable to the election of Mr. Pomeroy?

A. In that general conversation I cannot remember his exact language, but he always gave me to infer that he was a Pomeroy man.

Q. State the substance of any conversation you had with him which authorized any such inference.

A. I do not know that I can state his language; he always talked that Mr. Pomeroy would be elected; he seemed to think that was——

Q. Of course when he said Mr. Pomeroy would be re-elected you inferred that he was in favor of it?

A. Yes, sir; his friends were working very hard for it.

Q. Was that the only circumstance from which you drew that inference?

A. That was about all.

Q. You were at Topeka during the session of the legislature?

A. I was, part of the time.

Q. What time did you go there?

A. About a week before the senatorial election.

Q. At whose instance?

A. I was somewhat in favor of Mr. Babcock, of Lawrence.

Q. Did Mr. Babcock send for you to go up there?

A. No, sir; his friends spoke to me.

Q. Then you were not a Pomeroy man?

A. Not particularly, I was not.

Q. Then this dispatch which you sent to Mr. Crowell did not state the fact in relation to your position?

A. I do not know that it did at the time. I was not committed to anybody.

Q. Whom did you labor for at Topeka after you arrived there?

A. I was for Mr. Babcock as long as he was a candidate; after that I was for Mr. Pomeroy.

Q. Did anybody pay your expenses to Topeka?

A. No, sir.

Q. Where did you stop there?

A. Part of the time at the Tefft House.

Q. Was Mr. Babcock ever recognized or announced as a candidate there for the Senate?

A. Well, yes, sir; I was in his room frequently with his friends.

Q. When was this conversation that you had with Mr. Crowther?

A. That was Wednesday morning, about half past 9 o'clock.

Q. Where was it?

A. In the senate-chamber.

Q. Whereabouts in the senate-chamber?

A. Near his desk, standing there; a few members had come in; it was before the legislature had convened.

Q. Was it half past 9?

A. About that time.

Q. What time did the senate meet?

A. I think it was 10 o'clock.

Q. Was anybody present to hear the conversation?

A. Part of the time there was.

Q. Who?

A. Judge Latta was present when he first addressed me. He took me by the arm and we walked off to the corner of the room, and he made this proposition to me to take bets.

Q. Did he say anything to you about your position on the senatorial question?

A. No, sir.

Q. Did he know that?

A. I suppose he did.

Q. Had you had frequent conversations with Mr. Crowther while there?

A. Yes, sir.

Q. Were you intimately acquainted with him?

A. Yes, sir.

Q. Were you on confidential terms with him?

A. No, sir; not particularly.

Q. What was it he said in that conversation?

A. He said it was a job put up on "Old Pom;" and they were going to beat him; and he said I could make some money, and proposed to furnish the money if I could get bets.

Q. Did he pledge you to secrecy?

A. No, sir.

Q. He just made that statement?

A. He told me not to say anything. He said, "If you want to win some money, keep quiet and you can do it."

Q. What is your business?

A. Deputy United States marshal.

Q. Appointed by the United States marshal of Kansas?

A. I am.

Q. How long have you held that position?

A. The last two years.

Q. What particular duty do you discharge in the marshal's office?

A. I frequently serve papers in bankrupt cases, &c.

By Mr. THURMAN:

Q. You say that Mr. Crowell was station-agent. Do you mean he was the station-agent of a railroad?

A. No, sir; special agent of the Post-Office Department.

Q. This conversation with Mr. Crother took place, you say, about half-past 9 o'clock on the day on which the joint convention met?

A. Yes, sir.

Q. In which he told you it was a job set up on "Old Pom" that would beat him?

A. Yes, sir.

Q. And he wanted you to take his money and go and bet it that "Pom" would not be elected?

A. He told me he would furnish me the money if I could get bets, and would give me an interest in all the bets I could get.

Q. You declined the proposition?

A. No, sir; I didn't decline it.

Q. Did you go then and make any bets?

A. I didn't get any bets myself.

Q. Did you try to get any?

A. I did.

Q. You tried, then, to bet that Mr. Pomeroy would be defeated?

A. Yes, sir.

Q. Did you tell Mr. Pomeroy or any of his friends that they had a job set up on "Old Pom?"

A. I spoke to some of them directly after that.

Q. Before the joint convention met?

A. No, sir; after the convention.

Q. Did you tell any of them, before the convention met, that they had a job set up on "Old Pom," and money furnished to bet against him?

A. No, sir.

Q. On the contrary, you tried to get bets?

A. Yes, sir; I did.

Q. Bets that Mr. Pomeroy would be defeated?

A. Yes, sir.

Q. Did any of the Pomeroy men know that you were trying to get bets against him?

A. I do not know; I do not remember.

Q. How would you have explained it to any of the Pomeroy men, you having been there advocating his election, that you had all at once turned around, on the last day, and were betting against him?

A. I was not particularly advocating his claims.

Q. Were you not understood to be a Pomeroy man?

A. I suppose I was.

Q. What explanation would you have made, if asked "How is it, sir, that you are betting against your candidate?"

A. I do not know what explanation I could have made at the time.

Q. You tried to get some bets?

A. I asked some parties if they wanted to bet. Then I told some parties that Mr. Crother was taking some bets, and I think Mr. Crother did get a bet for three hundred dollars—at least he told me he did.

Q. Never mind about that; I am asking about yourself. You tried to get bets and did not succeed?

A. Yes, sir; I did not make much effort. I did not leave the capitol building; I was around the governor's office most of the time.

By Mr. SIMPSON:

Q. Were there any parties there betting on the senatorial election?

A. That morning I did not hear of any bets being made.

Q. At any time during that contest did you know of any bets being made on the election of Mr. Pomeroy?

A. No; I did not.

Q. You state that you tried to get bets yourself?

A. I did that morning.

Q. Whom did you offer to bet with?

A. I do not remember anybody particularly.

Q. Do you recollect how many persons you offered to bet with?

A. No, sir; I do not think it was very many. I was most of the time in the governor's room. I did not believe Mr. Crothers at the time he made the statement. I did not have much confidence in his statement.

Q. You did not believe Mr. Crother at the time he made the statement?

A. No, sir; I did not have much confidence in it.

Q. You did not repeat it to any one?

A. I think I repeated it to Judge Laddy, of Leavenworth.

Q. Did you repeat the story at any time afterward?

A. I think likely I did.

Q. Before the joint convention?

A. After the election.

Q. To whom?

A. I do not remember; several gentlemen. I think I repeated it to Governor Osborne and Mr. Horton.

Q. A. H. Horton?

A. Yes, sir.

Q. Anybody else?

A. Colonel Huston, United States marshal.

Q. If you did not believe the story of Mr. Crother, why did you offer to bet?

A. I did not think he had much money to bet. I thought he was a good deal like myself.

By Mr. HORTON:

Q. What relation are you to the governor?

A. He married a niece of mine.

By Mr. THURMAN:

Q. Governor of what?

A. The governor of Kansas.

By Mr. HORTON:

Q. Were you in his office most of the time?

A. Yes, sir.

By Mr. THURMAN:

Q. What is the name of the present governor of Kansas?

A. Thomas A. Osborn.

By Mr. HORTON:

Q. Did Mr. Crowell, or myself, or anybody else ever answer that dispatch?

A. No, sir.

By Mr. SIMPSON:

Q. Was the dispatch addressed to Judge Horton?

A. No, sir.

Q. Was the dispatch addressed to Mr. Crowell or anybody else in connection with him?

A. The dispatch was addressed to Major Crowell alone.

By Mr. VICKERS:

Q. Did Mr. Crothers state from whom the four thousand dollars was received, or who made it up, or who had an interest in it besides himself?

A. No, sir. He told me he could raise about four thousand dollars to bet.

WASHINGTON D. C., *Monday, February* 24, 1873.

DAVID W. HOUSTON sworn and examined:

By Mr. HORTON:

Question. Colonel Houston, state your age, residence, and business.

Answer. Forty-three; Leavenworth, Kansas; United States Marshal.

Mr. HORTON. I call the attention of the Committee to page 56 of the evidence of W. H. Bond. Mr. Bond testifies that a few minutes before twelve o'clock on Wednesday I approached him improperly. He fixes the time at twenty minutes before twelve on the day of the joint convention.

Q. (To the witness:) State whether or not, before that day, Mr. Bond had told you how he should vote in the joint convention—that is, before Wednesday, and before the time when he says I approached him.

A. He had.

Q. How did he say he should vote?

A. Mr. Bond had always told me, from the time of his election up to that time, that as soon as Dr. Logan was out of the way he would vote for Mr. Pomeroy.

Q. After the first ballot did Mr. Bond then state to you how he should vote the next day—Tuesday afternoon?

A. After the first ballot Mr. Bond came to me, in the presence of his brother, and he stated that he was satisfied that Dr. Logan could not be elected, and he had told Dr. Logan so, and Dr. Logan had released him from his obligation and promise to vote for him, and he was now ready to vote for Mr. Pomeroy, and expected to do so.

By Mr. THURMAN:

Q. Who did he vote for on Tuesday?

A. For Mr. Logan.

By MR. HORTON:

Q. Did you make that statement to him before that time he says I approached him on Wednesday?

A. I made that statement to him immediately after he told me, as soon as I had an opportunity.

Q. Then did I have the information before Wednesday morning of you that he would so vote?

A. Yes, sir; Tuesday afternoon you had it.

Q. On Wednesday morning did you have any conversation with Mr. Bond about his vote?

A. I did.

Q. What did he say?
A. I saw Mr. Bond at his room.
Q. About what time?
A. About 8 o'clock in the morning.
Q. That was prior to a few minutes before 12 o'clock?
A. Yes, sir.
Q. State what occurred.
A. I walked along the street with him two or three blocks.

By MR. THURMAN:

Q. At what hour was that?
A. Between 8 and 9 o'clock Wednesday morning. He said to me that he had been at the anti-Pomeroy caucus; and when they came to put down their names to vote for Mr. Ingalls he left the caucus, and would not put down his name; and he said that no Leavenworth man could vote for Mr. Ingalls. I am not sure that he said positively that he was going to vote for Mr. Pomeroy; but he left me to understand that as there were but two candidates running he stated several times that no Leavenworth man could vote for Mr. Ingalls.

By MR. HORTON:

Q. On Tuesday afternoon do you know that Mr. Bond came to me and stated that he had made up his mind to vote for Mr. Pomeroy?
A. No, sir; I do not know that.

By Mr. THURMAN:

Q. For whom did he vote?
A. On Wednesday?
Q. Yes.
A. For Mr. Ingalls.
Q. Was the entire vote on Wednesday for Mr. Ingalls?
A. There were three or four members—a dozen scattering votes, but not more than a dozen.
Q. And Mr. Bond voted for Ingalls?

By Mr. VICKERS:

Q. How many votes did Dr. Logan get on Tuesday?
A. Eleven votes.

By Mr. HORTON:

Q. Were you at Topeka at the time of the senatorial election?
A. I was there most of the time from the meeting of the legislature until the election.
Q. Were you friendly to Mr. Pomeroy?
A. Yes, sir.
Q. State if you know of any money being used by him or his friends, directly or indirectly, for his election?
A. I do not know of a dollar.
Q. Were you there all the time?
A. I was.

By Mr. SIMPSON:

Q. How long have you known Mr. Bond?
A. I have known him over three years; between three and four years.
Q. Does he occupy any position under you?
A. He does.
Q. What is it?
A. He is my deputy.

Q. When was he appointed?
A. I think three years ago—about that.
Q. Where do you live?
A. In Leavenworth city.
Q. In whose representative district—Mr. Bond's?
A. No, sir; Mr. Kellogg's district.

By Mr. THURMAN:

Q. Do you mean in his congressional district?
A. No, sir; legislative district.

By Mr. SIMPSON:

Q. Did you have any conversation with Mr. Bond before his nomination?
A. Yes, sir.
Q. With reference to his position on the senatorial question?
A. No, sir, I think not.
Q. Did you, before time of his nomination and election, have any conversation with Mr. Bond?
A. I did have conversation with him?
Q. Did you have any conversation with him in reference to the senatorial question?
A. I do not think I did.
Q. Mr. Bond, then, never told you that he was for Mr. Pomeroy until after the election?
A. No, sir; I do not think that he did. He may have done so.
Q. When did Mr. Bond tell you he was favorable to the election of Mr. Pomeroy?
A. He never told me he was favorable to the re-election of Mr. Pomeroy, except that he could not get a Leavenworth man.
Q. When did he first tell you he would vote for Mr. Pomeroy?
A. I think very soon after his election.
Q. After Mr. Bond's election?
A. Yes, sir.
Q. Did he say, directly, that he would vote for Mr. Pomeroy?
A. I think he did, after we could not get a Leavenworth man.

By Mr. THURMAN:

Q. Was Mr. Logan a Leavenworth man?
A. Yes, sir; a candidate from Leavenworth. There were others talked of, but it settled down on Dr. Logan finally.

By Mr. SIMPSON:

Q. Where does Mr. Ingalls live?
A. At Atchison.
Q. Where does Mr. Pomeroy live?
A. In Atchison—he claims to live at Atchison.
Q. Mr. Bond gave as a reason why he could not support Mr. Ingalls, that he was from Atchison?
A. No, sir; not that reason.
Q. What reason did he give?
A. He did not give me any reason Wednesday morning, when Mr. Ingalls was settled on as the best candidate.
Q. He said that no Leavenworth man could vote for Mr. Ingalls?
A. Yes, sir.
Q. But he did not state why?
A. No, sir; but I understood the reason—it had been discussed in Leavenworth a great deal.

Q. You state that, shortly after the election, Mr. Bond stated to you that he would vote for Mr. Pomeroy.

A. Yes, sir, if he could not get a Leavenworth man.

Q. Did he make that same statement to you at any other time?

A. I think he did frequently. He was in my office almost every day, and we talked of it frequently. I think he stated it twenty times.

Q. Between the time of his election and the assembling of the legislature?

A. Yes, sir.

Q. After the legislature assembled you had frequent interviews with Mr. Bond at Topeka?

A. Yes, sir; I went there frequently.

Q. You saw him occasionally?

A. Yes, sir.

Q. Did he state on any of these occasions that he would vote for Mr. Pomeroy?

A. Yes, sir.

Q. How often?

A. Perhaps three or four times.

Q. You had a conversation with him on Tuesday after the ballot had been had in separate houses?

A. Yes, sir.

Q. What time on Tuesday?

A. Some time in the afternoon.

Q. Where was that conversation held?

A. It was on the sidewalk south of the Tefft house.

Q. Was anybody present?

A. His brother was present part of the time.

Q. He stated to you then that he would vote for Mr. Pomeroy?

A. Yes, sir.

Q. When was the next interview you had with him?

A. Monday morning.

By the CHAIRMAN:

Q. How many votes did Mr. Logan get on Tuesday?

A. Eleven votes.

By Mr. SIMPSON:

Q. At what time on Wednesday did you have that interview?

A. I think it was before 9—about 9—between 8 and 9 o'clock.

Q. Where was it?

A. It was at his room in a private boarding-house, and walking down the street from there to the Tefft house.

Q. Was he up when you went to his room?

A. Yes, sir; I did not go to his room; I found him in the general dining-room of his boarding-house.

Q. In that general conversation did he say that he would vote for Mr. Pomeroy?

A. I do not know that he said so directly. He said he could not vote for Mr. Ingalls, and that was satisfactory to me, as there were but two candidates.

Q. What was the object of your visit?

A, To see what his mind was, and to see how he stood, and to see if his mind had settled on Ingalls.

Q. Up to that time you were not positive then as to whether Mr. Bond would vote for Mr. Pomeroy or not?

A. I was positive as to what he had promised; that is all I can say about it.

Q. Did you have any conversation with Mr. Bond in reference to furnishing him money to conduct his canvass?

A. Yes, sir.

Q. When was that conversation?

A. It was along about the time of the election.

Q. What was that conversation?

A. He had a very hard fight. It was a democratic precinct. He had a hard fight in his precinct or ward, and he wanted some assistance in money.

Q. Did you furnish him any?

A. Yes, sir.

Q. How much?

A. I think it was $50; I am not sure. I know they asked me for a contribution; it was not particularly for him, but for the republican party in that ward.

Q. Did you make any statement to Mr. Bond in reference to furnishing Mr. Fields money to pay his expenses?

A. No, sir; I never made any such statement to him; not that I remember.

Q. Did you ever offer to pay Mr. Bond $300?

A. I never did.

Q. Or any other sum of money?

A. I never offered to pay him a dollar.

By Mr. THURMAN:

Q. Did you ever tell Judge Horton here that Mr. Bond was for Mr. Pomeroy?

A. I did.

Q. When did you first tell him that?

A. I told him that after the conversation I had with Mr. Bond on Tuesday afternoon, when Mr. Bond told me that Dr. Logan had released him from his obligation.

Q. Was that the first time that you told Judge Horton that Mr. Bond was for Mr. Pomeroy?

A. That was the first time I told him he would vote for Mr. Pomeroy positively.

Q. Were you an active friend of Mr. Pomeroy's?

A. Yes, sir.

Q. The Judge was also?

A. Yes, sir.

Q. Were you ever in consultation with Mr. Pomeroy and the Judge about the position of the various members?

A. Yes, sir, almost every day.

Q. Trying to find out how they would vote?

A. Yes, sir.

Q. In these conversations did you tell them that they might rely on Mr. Bond?

A. I told them that I had no doubt that Mr. Bond would vote for him, finally: That Dr. Logan would not be in the way, finally, and we counted him on the final vote.

Q. Was he counted on the Pomeroy list?

A. Not on the positive list.

Q. But on the probable list?

A. Yes, sir.

By Mr. HORTON:

Q. On the second ballot?

A. On the second ballot. We always counted him for Mr. Pomeroy.

Q. You say before this Wednesday on which Mr. Bond says he was approached by me you gave me positive knowledge that Mr. Bond had said he would vote for Mr. Pomeroy?

A. I think I told you what Mr. Bond had said; that Dr. Logan was out of the way.

By Mr. SIMPSON:

Q. Do you know anything about the meeting or conference between Mr. Horton and Mr. Bond on Wednesday?

A. I am not sure that I do from my own knowledge. I have some impression that I did see them together immediately after that; but I am not sure that I did. I know that Mr. Horton started off to see Mr. Bond and some men he wanted to get together; whether he got them together I am not sure.

Q. Do you know whether Mr. Bond was a very active anti-Pomeroy man?

A. I did not consider him an active anti-Pomeroy man. I considered him an active Logan man.

WASHINGTON, D. C., *Monday, February* 24, 1873.

ASA LOW sworn and examined.

Mr. HORTON: I call the attention of the Committee to the evidence of Mr. Driscoll, on page 65.

By Mr. HORTON:

Question. What is your age, and where do you reside?

Answer. Sixty-one is my age. I live in the town of Doniphan, Doniphan County.

Q. State if you are acquainted with Mr. Driscoll, the member of the legislature from that county?

A. I am.

Q. Were you at Topeka during the late senatorial election?

A. I was. I went there the Monday before the meeting of the legislature.

Q. State whether you had any conversations with Mr. Driscoll during that senatorial election?

A. I had.

Q. State whether you intimated to him that $2,000 would not break you provided he would vote for Mr. Pomeroy?

A. I did not.

Q. Did you use language to him to that effect, or that in substance?

A. No, sir; not that he could draw any inference from it that I would give him two thousand dollars. He stated to me—if I may be allowed to make the explanation as to how it came up.

The CHAIRMAN: Certainly.

The WITNESS: Mr. Driscoll said he had been unfortunate, and might need help; that his constituents might go back on him; that he must vote according to the wishes of his constituents, and if they went back on him it would be the ruin of him. I told him if they went back on him

I would stand by him. I had always been his friend. I had indorsed him at the bank, and had loaned him money whenever he asked for it; and I said I would continue to be his friend; and in some conversation we had there, he still insisted in going against Mr. Pomeroy, and I tried to convince him that I was in earnest, and that he knew by my past acts that I ought to be, and I don't know but I said, "Now, Mr. Driscoll, I will stand by you as I have always done, and if it takes a farm or a thousand dollars, or two thousand dollars, it will not break me." Recollect, I was to stand by him in case his constituents wanted to crush him. There was two-thirds there for Mr. Pomeroy. I was well posted there, and know it. That was the conversation. There was not any intimation that I would give it to him for his vote.

By Mr. HORTON:

Q. Had you any authority from Mr. Pomeroy, directly or indirectly, to offer Mr. Driscoll any money, or any office, or anything of value of any kind?

A. I had not.

Q. Had you any authority from Mr. Pomeroy to offer to any members of the legislature any money or any consideration for their votes?

A. I had not.

Q. Had you received any money, a dollar or a cent, from Mr. Pomeroy to use in that connection?

A. I had not.

Q. During all the time you were at Topeka did you have any money from Mr. Pomeroy or any of his friends to use in any way?

A. Not a dollar.

Q. Do you know, of your own personal knowledge, of any money used by Mr. Pomeroy in the election?

A. I do not.

Q. Do you know of any money being used, directly or indirectly, by his friends?

A. I do not know of any.

Q. You can make any other statement that you think pertinent.

A. It may be brought out in explanation about the money. There were some members at that time talking about voting for Mr. Pomeroy, and they had talked that they were poor and had not made up their minds to vote for anybody; they didn't say they wanted money, though. In conversation with Mr. Pomeroy, in his room, I said, "Mr. Pomeroy there are some members, I believe, want money," and Mr. Pomeroy replied squarely to me, "Not a dollar; I would not give a dollar for a vote; I would rather not be elected than to give a dollar for a vote." That is about all I recollect of any conversation about any member or anything else with him.

By Mr. THURMAN:

Q. When did you go to Topeka?

A. On Monday before the meeting of the legislature; that would be on the 13th.

Q. How long did you stay there?

A. I remained until Wednesday night after the senatorial election.

Q. Where did you live?

A. At Doniphan, Doniphan county, Kansas.

Q. How far is that from Topeka?

A. About sixty-five or seventy miles.

Q. On what business did you go to Topeka?

A. I went there as a lobby; I generally attend all the meetings of the

legislature to pass the time; I have always done it; I have been there several sessions.

Q. As a lobbyist?

A. Yes, sir; simply to meet acquaintances of my State.

Q. Did you take any part in the election?

A. Well, I talked to a number of Mr. Pomeroy's friends about the election.

Q. Were you for or against him?

A. Well, I was rather for Mr. Pomeroy, knowing that he was a Senator of our State, and was the best man, I believed, for the interests of our State more than anything else.

Q. Were you understood to be a Pomeroy man?

A. Some said I was. I was questioned by two men. I was a candidate in a split in the republican party in our county, and Mr. Driscoll beat me a few votes; but I made no effort. Mr. Price made the split.

Q. Did you run as a Pomeroy man?

A. No, sir.

Q. After you went to Topeka were you understood to be for Mr. Pomeroy?

A. Yes, sir; friendly to Mr. Pomeroy.

Q. It was generally understood?

A. Generally understood, I suppose.

Q. How did Mr. Pomeroy understand it?

A. I suppose he understood I was a friend of his.

Q. Did he take you into his counsels as a friend?

A. Nothing particular; nothing more than I went in and talked with him.

Q. Were there any Pomeroy caucuses?

A. I was in none.

Q. Was there any Pomeroy committee?

A. No, sir.

By the CHAIRMAN:

Q. What is your business?

A. If I have any business it is farming. I am not working myself; my boys attend to that part. That is all the business I am engaged in. I am living in town.

Q. Are you a man of means?

A. Oh, I have got some; yes.

By Mr. THURMAN:

Q. How long have you known Mr. Pomeroy?

A. Ever since the spring of 1857.

Q. Were you at Topeka when he was elected in 1861?

A. Yes, sir.

Q. Were you for or against him then?

A. I was for Lane and Parrott then. I voted for Lane and Parrott.

Q. You were in the legislature then?

A. Yes, sir.

Q. Are you quite sure that Mr. Pomeroy regarded you at this late election as a firm and fast friend of his?

A. I think so.

Q. You think he did?

A. Yes.

Q. Did you tell him that you were his friend? Had you ever told him that you were his friend?

A. I don't know that I ever did positively—that is, directly; but then

he knew it; we had been acquainted since 1857. I had known him since a few days after I came to Kansas.

Q. But did he understand that you were one of his friends working for him.

A. I think he did. I worked for nobody else.

By Mr. SIMPSON:

Q. You were a candidate for the legislature in your representative district?

A. Yes, sir.

Q. Did you take any position on the senatorial question?

A. I did this: I was asked by two men in our town how I was on the Pomeroy question. I said to them that if there was a better man than Mr. Pomeroy I should certainly vote for him, but I made an exception of those running—Mr. Harvey and others.

Q. You declined committing yourself against Mr. Pomeroy?

A. That is what I said.

Q. You live in a republican district?

A. Yes, sir.

Q. Mr. Driscoll, who has testified, was the candidate against you?

A. Yes, sir.

Q. He was elected?

A. Yes, sir.

Q. Did he take any position on the senatorial question in the canvass?

A. Not that I know of.

Q. Did he not declare himself unequivocally opposed to the re-election of Mr. Pomeroy?

A. Not in my presence.

Q. Did you not make a canvass of the district?

A. No, sir.

Q. Did he make any speeches?

A. He did. I did not. I never asked a man to vote for me.

Q. How was he regarded in the district—as favorable or unfavorable to Mr. Pomeroy?

A. There was nothing said as a general thing, excepting the faction at Troy opposed to Mr. Pomeroy.

Q. Was not your main business in attending the recent session of the legislature in Kansas to help to re-elect Mr. Pomeroy?

A. Well, I can't say but what that was part of it.

Q. Were you not one of the active friends of Mr. Pomeroy at Topeka?

A. Like a good many others.

Q. You did the best you could?

A. Yes, sir.

Q. And all you could?

A. Yes, sir; because I considered him the best man.

Q. Did you have frequent conversations with Mr. Pomeroy in reference to the election?

A. I had a few; not near as many as a great many had.

Q. You had several conversations with him?

A. Yes, sir; I had some, of course.

Q. In reference to members of the legislature?

A. Yes, sir.

Q. As to how they were going to vote?

A. Yes, sir; I had talked with a good many.

Q. You said you had conversed with a good many members of the legislature, who said they were poor and had not made up their minds?

A. Yes, sir.

Q. State what members?

A. I can't say positively.

Q. Can you name a single member of the legislature who said to you in that language—that he was poor and had not made up his mind as to who he would vote for?

A. There was Mr. Willett's father said—

Q. But I am asking about the members of the legislature. You said you had conversation with several members of the legislature who stated they were poor and had not made up their minds how to vote?

A. I can't name the men now, I believe.

Q. You have no recollection of who the men were?

A. No, sir; for I was not acquainted with them western members—many of them.

Q. Do you know Mr. Stratton of Clay county?

A. No, sir.

Q. Or Mr. Snyder?

A. No, sir.

Q. In this conversation with Mr. Driscoll, what was the object of that conversation?

A. Which one?

Q. The one you have testified to.

A. Mr. Driscoll did not want to vote against the wishes of his constituents.

Q. I understand that; but what was your object in having that conversation?

A. My object was to convince him that, if his friends went back on him, I would do as I had always done.

Q. You and he were old personal friends?

A. Yes, sir, for years; and I would still be the same.

Q. And if it were necessary to take a farm or a thousand or two thousand dollars, you would still be his friend?

A. Yes, sir; in case the others went back on him.

Q. Explain why it was necessary if the constituents of a man went back on him; that is, you mean, did not approve his action; is that what you meant?

A. Yes, sir, he was, somewhat, in politics; was an attorney, and they might injure him; I suppose that was the ground.

Q. How injure him?

A. You know if a man's friends go back on him, as, if he is an attorney or anything else, it injures him.

Q. He said he had been unfortunate, and you said that, in that case, if his friends went back on him if he voted contrary to their expectation, you would stand by him if it took a farm or one or two thousand dollars.

A. Yes, sir; I wanted to back up what I had said just in that way. It was a kind of jest.

Q. Have you read Mr. Driscoll's testimony?

A. I read some of it in the "Champion," at Atchison on Thursday.

Q. Did Mr. Driscoll state substantially the fact in reference to that conversation—that you would stand to him to the extent of two thousand dollars?

A. No, sir; I said from one to two thousand dollars, in case I was going to back up my word with it it would not injure me to give that

rather than forfeit my word; that I would not forfeit my word for two thousand dollars.

Q. Did you ever hold any public position by the favor of Mr. Pomeroy's appointment or influence?

A. Not that I know of. He never gave me anything. I believe he turned me out while I was in.

Q. What position did you hold?

A. I was register of the land office at Atchison.

Q. When did you get that position?

A. In 1861. I got that under General Lane, I believe. I believe Mr Clarke sent me a commission for mail-agent. I had that a year. Mr. Pomeroy, I guess, got Mr. Crowell appointed in my place; that was all right. My interest for Mr. Pomeroy was my interest for the State; I was a taxpayer and I wanted a true and tried man, and I worked for Mr. Pomeroy.

Q. Had you any other business at Topeka than to secure the re-election of Mr. Pomeroy?

A. I had nothing more than a good many to go there for. I was acquainted with many people in the State; I had been a senator and a representative once or twice, and I went there to see my friends. I had not much to do at home.

By Mr. HORTON:

Q. You have means upon which to live without being in active business?

A. O, yes, sir.

By Mr. VICKERS:

Q. Did you know the sentiments or wishes of the constituents of Mr. Driscoll upon the subject of the senatorial election? Were they favorable or unfavorable to Mr. Pomeroy?

A. I could not say. I believe there is a majority of the democrats themselves who were favorable to Mr. Pomeroy in the election. I have talked with them, and they all seemed to be, with very few exceptions. I believe two-thirds of our county are favorable to Mr. Pomeroy in preference to any other man, except Mr. Ingalls came up.

By Mr. HORTON:

Q. In that connection, did not the senator from that county vote for Mr. Pomeroy?

A. Yes, sir; three of the members voted for Mr. Pomeroy.

By Mr. SIMPSON:

Q. Were you present at a meeting of the Doniphan delegation in the legislature the night before the senatorial election, at Judge Price's room in the Tefft House?

A. Yes, sir.

Q. Did or did not Mr. Driscoll, in addressing that delegation, state that there was not a member of the delegation that had been elected who had dared to come out and say during the canvass that he was in favor of Mr. Pomeroy?

A. I do not recollect that he did, because Mr. Bowers, I know, was elected.

Q. But I am talking about the statement made by Mr. Driscoll.

A. I can't say positively whether there was or not.

Q. You do not remember?

A. No, sir, I do not remember, positively.

Q. In your own district was it not known that you were a political and personal friend of S. C. Pomeroy?

A. No, sir, not positively. There were but two men in my district asked me if I would vote for Mr. Pomeroy. One was sent by the faction at Troy that were opposed to our election and made the split—Mr. Bridges, sent down by Mr. Flinger. I said if there was a better man than Mr. Pomeroy I would vote for him.

By Mr. HORTON:

Q. Were you ever admitted into a Pomeroy caucus?

A. No, sir.

WASHINGTON, D. C., *Monday, February* 24, 1873.

J. P. BROWN sworn and examined.

By Mr. HORTON:

Question. State where you reside.

Answer. Atchison, Kansas.

Q. What is your age?

A. Forty-three.

Q. State if you ever received any authority from Mr. Pomeroy to offer money, or make any promises in regard to money, to any member of the legislature during the late senatorial canvass in Kansas.

A. No, sir.

Mr. HORTON. I refer the committee to the testimony on page 66.

Mr. THURMAN. The person named there was "Paddy Brown." Is this the gentleman?

The WITNESS. Yes, sir.

By Mr. HORTON:

Q. State if you received any money from Mr. Pomeroy or me, or any friend of Mr. Pomeroy, to use in the senatorial election at Topeka.

A. No, sir.

Q. State if you have any personal knowledge of any money being used by Mr. Pomeroy or any of his friends, at the senatorial election at Topeka, on his behalf.

A. No, sir.

Q. Were you at Topeka with a large number of citizens of Atchison?

A. Yes, sir.

Q. State to this committee if you ever offered Mr. O'Driscoll, a member of the legislature from Doniphan County, any money for his vote or influence for Mr. Pomeroy.

A. None direct, sir.

Q. State if you ever had any authority from——

By Mr. THURMAN:

Q. None direct; what do you mean?

A. I never offered him any money.

By Mr. HORTON. I am coming to his conversation in one minute. [To the witness:] State if you had any authority from Mr. Pomeroy to offer him any money, directly or indirectly, for his vote?

A. No, sir.

Q. Or from any of Mr. Pomeroy's friends?

A. No, sir.

Q. Now state what, if anything, you said to Mr. O'Driscoll, and at whose instance you had any conversation with him.
A. I told him likely I could get him five hundred dollars.
Q. Was that at your own instance?
A. Yes, sir.
Q. Had you had any conversation or authority to make any statement of the kind from Mr. Pomeroy, or any of Mr. Pomeroy's friends before that conversation occurred?
A. No, sir.
Q. Did he ever get angry with you in any way or form?
A. No; we talked about it; he did not get angry.
Q. Did he ever bow you out of the room?
A. I did not see it.
Q. Did he ask you to come again after that conversation?
A. I had several talks with him.
Q. Do you know of Mr. Pomeroy, or any of his friends, using any money at Topeka during the senatorial election?
A. Mr. Pomeroy told me he would not use any.
Q. Were you ever admitted to Mr. Pomeroy's caucus?
A. No, sir. I was in one meeting in the room; I did not understand it to be a caucus.
Q. What, if anything, did Mr. Pomeroy say to you about the use of money in the election?
A. He said he could not use any, and would not.

By Mr. SIMPSON:

Q. Mr. Brown, you state that in a conversation with Mr. O'Driscoll you told him you could get him five hundred dollars?
A. Likely I could.
Q. What induced you to make that remark to him?
A. I do not know what, hardly.
Q. Did you know of any place where you could get him five hundred dollars to vote for Mr. Pomeroy?
A. No, sir.
Q. Would you yourself have given him $500 to vote for Mr. Pomeroy?
A. No, sir.
Q. Yet you made that remark to him?
A. Yes, sir.
Q. Don't you now know what induced you to make that remark to him?
A. No, I do not know. I would have liked if he would have voted for him.
Q. You would have liked if Mr. O'Driscoll had voted for Mr. Pomeroy?
A. Yes, sir.

By Mr. THURMAN:

Q. What is your answer?
A. I would have liked if Mr. O'Driscoll had voted for Mr. Pomeroy.

By Mr. SIMPSON:

Q. Then you did not mean anything by that remark?
A. I was just finding out about how it was.
Q. You were just finding out about how it was?
A. Yes, sir.
Q. Why did you want to find out how it was?
A. I heard he was opposed to Mr. Pomeroy.
Q. Your idea was that he wanted money; was that it?

A. I do not know exactly. I just thought I would talk to him.
Q. To see whether he wanted money or not?
A. Yes, sir; I did not think he would take the money then.
Q. After the conversation you had with Mr. O'Driscoll, in which you said likely you could get him $500, did you have any other conversation with him?
A. That was the last one.
Q. The last conversation you had? You did not have one after that?
A. No, sir; one prior to that.
Q. Was anything said about money in that conversation?
A. I think not.

WASHINGTON, D. C., *Monday, February* 24, 1873.

J. S. HOKE sworn and examined.

Mr. HORTON. I call the attention of the committee to the testimony on page 66. (To the witness:)
Question. Where do you reside?
Answer. At Atchison.
Q. What is your politics?
A. Democratic.
Q. State if you were at Topeka with some of the citizens of Atchison during the senatorial election, favoring Mr. Pomeroy?
A. I was.
Q. Let me ask you if you made any offer to Mr. Driscoll, at the instance of Mr. Pomeroy or any of his friends, of any money for his vote at the senatorial election?
A. I made no offer whatever to him, sir.
Q. Did you make any offer upon your own behalf?
A. I made no offer upon my own behalf. I had a conversation with Mr. O'Driscoll.
Q. Just state the conversation.
A. I was desirous of finding out the exact standing of Mr. O'Driscoll upon the senatorial matter. I was not aware that he was an anti-Pomeroy man, yet we were not aware that he was a Pomeroy man. In order to discover what his exact sentiments were I suggested a number of things to him; among others I intimated that in all probability he could obtain money.
Q. For what purpose did you make that intimation?
A. To satisfy myself what his standing was on that subject.
Q. Did you have any authority from Mr. Pomeroy, or me, or any of Mr. Pomeroy's friends, to use any money in that senatorial election?
A. None whatever.
Q. Did you, while at Topeka, receive a dollar from me, or Mr. Pomeroy, or any of his friends, to use there?
A. I did not.
Q. Did you have any money in your possession at Topeka, of your own or anybody else's, to use for Mr. Pomeroy?
A. I did not.
Q. Did you use any money there for Mr. Pomeroy?
A. I did not.
Q. Did you have any personal knowledge of any money being used to influence any member of the legislature of the late senatorial election?

A. I know of no money being used or offered or intended to be.

Q. Do you know of any conversation with me about it?

A. Yes, sir; in regard to Mr. O'Driscoll. I will state, gentlemen, that I spoke to Mr. O'Driscoll partly at the instance of Mr. Horton, knowing that he was a democrat, and that, probably, I could influence him. Judge Horton wished me to set forth the claims that Mr. Pomeroy had upon the State; his influence at Washington; his experience; and, as near as I can recollect, in reply to my inquiry if he wanted me to buy him, he remarked telling me not to offer him any money at all, not to talk money to him, but merely to set forth the benefits arising from the election of Mr. Pomeroy to the Senate. In order to discover how Mr. O'Driscoll stood, and to present Mr. Pomeroy's claims, I concluded it best to go to the bottom and ascertain if he wanted money. He did not. I would like to say further, in this connection, that our conversation was the most friendly, and after it transpired Mr. O'Driscoll expressed his willingness to meet me at any time and talk over the matter, and think as favorably as possible of Mr. Pomeroy. I had no authority to talk money to him, or make him any offer, and I made him no offer. I said to him distinctly that I was not authorized to offer him money.

By Mr. VICKERS:

Q. Did you say to him, "Business is business; just say how much money you will take?"

A. I do not remember; it is not improbable. I am likely to make those statements at any time.

Q. Did he say Mr. Pomeroy had not money enough to buy him?

A. He may have said that; I do not remember. I will say this for Mr. O'Driscoll—he expressed an unwillingness to vote for Mr. Pomeroy himself because of the pledges he had made his constituents just before the election. He said that he had pledged himself to not, in any combination of men or circumstances, vote for Mr. Pomeroy, and that appeared to be the only reason why he would not do it in this case.

By Mr. THURMAN:

Q. Do I understand it was mere curiosity on your part to know whether he was a corrupt man that induced you to offer him that money or suggest money to him?

A. No, sir; I wished to convince him, if possible, that Mr. Pomeroy was the best man to vote for. If he was entirely mercenary in his motives, I knew it would be no use to try to convince him. If I had found him mercenary I should have let him alone.

Q. Your intimation or remark, then, was simply to find out whether he was influenced by mercenary motives or not?

A. Yes, sir.

Q. That was all?

A. Yes, sir.

By Mr. SIMPSON:

Q. What did you say to him?

A. I do not remember the words. I think I suggested to him, or know, after the conversation was over, I thought I had said very little, and if he told all I did say it would not hurt Mr. Pomeroy; because I was careful, for I knew I was taking a risk upon myself that might damage Mr. Pomeroy, and he should not be damaged for what I voluntarily did. I think I told him, if he could make a thousand or two dollars it would be about as acceptable to him as anything could be, and

no damage whatever to his constituents. I think it was something in that shape.

Q. What was the object of your visit to Topeka?

A. The particular object of my visit was to watch the election, and, if possible, assist Mr. Pomeroy.

Q. You live at Atchison?

A. I do.

WASHINGTON, D. C., *Monday, February* 24, 1873.

JOHN A. MARTIN sworn and examined.

By Mr. HORTON:

Question. Colonel Martin, where do you reside?

Answer. At Atchison.

Q. How long have you lived there?

A. Since 1857.

Q. About how many years?

A. Since 1857.

Q. Give the number of years?

A. About sixteen years, now.

Q. State what room you occupied when you were at Topeka.

A. I occupied the room with Judge Horton; I think No. 15.

Q. Did you occupy a bed with me?

A. Yes, sir.

Q. Were you there during most of the senatorial election?

A. During almost the whole of it.

Q. Were you there in my confidence and the confidence of Mr. Pomeroy?

A. I presume so.

Q. You say you slept in the bed with me. Let me ask you if you know of any money being used, directly or indirectly, by Mr. Pomeroy or myself, or any of his friends, in the senatorial election?

A. I do not.

Q. What were the statements of Mr. Pomeroy to you on that subject?

A. In several conversations I had with Mr. Pomeroy, he assured me that he had not used, and did not intend to use any money or other corrupt influence to corrupt any members of the legislature.

Q. Do you know of any money being used to influence any vote in the legislature, directly or indirectly?

A. I have no knowledge whatever of it.

Q. Do you recollect the Saturday previous to the election, at which Mr. Yorke says the rooms of Mr. Pomeroy were quite deserted, about the legislature adjourning?

A. I believe they adjourned on the Friday previous to that time.

Q. Did you remain in Topeka during that time?

A. Yes, sir.

Q. How was it about the number of persons stopping at the hotel that day as compared with other days?

A. I think there was a general thinning out that day. I know a great many from our section returned that morning and in the evening.

Q. Were there not a large number from Atchison in the interest of Mr. Pomeroy there?

A. Yes, sir.

Q. Did they not all go home that evening?
A. Yes, sir; almost all that could get home.

By Mr. SIMPSON:

Q. State who were the most trusted and confidential advisers of Mr. Pomeroy during that contest, as far as you know?
A. I think Judge Horton, and Colonel Murphy, and Mr. Houston, and probably Captain Anthony; and there were a number of gentlemen around there who were all intimate with Mr. Pomeroy, and warm personal friends of his, and who were laboring for his election.
Q. Did any of these gentlemen hold public positions?
A. Yes, sir.
Q. State which ones, and what position they held?
A. Colonel Houston is United States Marshal. Judge Horton is United States District Attorney. Colonel Murphy has no office, I believe, at all. He is a citizen of Atchison; our city.
Q. Did he, a few years ago, hold any position?
A. He did, I think, until about three years ago. He was superintendent of Indian affairs.
Q. How about Captain Anthony?
A. He is United States collector for the district of Kansas.
Q. Internal revenue collector?
A. Yes, sir.

By the CHAIRMAN:

Q. Is Judge Horton district attorney now?
A. I believe he is.

By Mr. SIMPSON:

Q. What position do you hold?
A. I am postmaster of the city of Atchison, and editor of the "Daily Champion."
Q. These men, you think, were the confidential advisers of Mr. Pomeroy?
A. I think they were among them. I don't know that they were more the confidential advisers of him than, perhaps, a dozen others who might be named—probably twenty or thirty others—but they were there. I simply mentioned them because their names happened to occur to me. There were others who were just as much his friends.
Q. Do you know anything about betting?
A. I saw several offers of betting about that time.
Q. Which way were the parties offering to bet?
A. Some against Mr. Pomeroy and some for him.

WASHINGTON, D. C., *Monday, February* 24, 1873.

GEORGE T. ANTHONY sworn and examined.

By Mr. HORTON:

Question. Give your name, age, and residence.
Answer. George T. Anthony; forty-nine years old; I live in the city of Leavenworth, State of Kansas.
Q. What public position do you now hold?
A. Collector of Internal Revenue for the State of Kansas.
Q. By what President were you appointed?

A. Andrew Johnson.
Q. Upon whose recommendation?
A. That of Senator E. G. Ross.
Q. Have you retained the office since that appointment?
A. I have, sir.
Q. Were you an editor of a paper just prior to the senatorial election?
A. I was, sir.
Q. Was that a political or a non-political paper?
A. No, sir; it was an agricultural journal called "The Kansas Farmer."
Q. Did it have anything to do with politics?
A. No, sir.

By Mr. THURMAN:

Q. Was it at Leavenworth?
A. Yes, sir.

By Mr. HORTON:

Q. As such editor did you exchange with the papers of the State of Kansas?
A. I did, sir, and kept files of them.
Q. About how many papers in the State were published during December and January?
A. A little more than one hundred, sir.
Q. Can you recollect, now, the number of daily newspapers?
A. There were eight in English, I think, sir, and two in German.
Q. Of the daily newspapers, how many favored the election of Mr. Pomeroy?
A. Four of them.
Q. How many weekly papers were favoring his election?
A. From thirty-five to forty were outspoken of the weekly papers of the State.
Q. How many were opposed to him positively.
A. About eight were very bitterly hostile to him through the entire canvass.
Q. In the entire State?
A. Yes, sir.
Q. How many were neutral or second choice?
A. Well, the balance. I speak now of republican papers.
Q. The large majority of republican papers that expressed any choice were for him?
A. Yes, sir.
Q. How much was that majority?
A. Well, sir, I think that three-fifths of the press of Kansas stated it as their second choice, and about half of the republican papers of the State were outspoken for Mr. Pomeroy.
Q. Are you well acquainted in Leavenworth?
A. Yes, sir.
Q. Were you acquainted with the gentlemen from Leavenworth who were at Topeka in the interest of Mr. Pomeroy?
A. With many of them, or all of them.
Q. Do you know John C. Murphy?
A. I do.
Q. Who is John C. Murphy?
A. He is a resident of the fourth ward, and was a candidate of the liberal republican party for the legislature, and defeated by Mr. Bond, who was the successful candidate.

Q. Do you know John J. Murphy?
A. Yes, sir.
Q. Where does he reside?
A. In the fourth ward.
Q. Did you know the parties from Leavenworth who were in Topeka in the interest of Mr. Pomeroy?
A. Yes, sir.
Q. Do you know whether Mr. John J. Murphy was there in his interest?
A. I did not see him there at all.
Q. He might have been there without your seeing him?
A. Yes, sir; I did not see him there.
Q. Were you well acquainted with Mr. Pomeroy's advisers from Leavenworth?
A. Yes, sir; and I would suppose that John J. Murphy, if at Topeka, must have been there against Mr. Pomeroy, judging from his associates.
Q. Were you frequently in Mr. Pomeroy's room.
A. Yes, sir.
Q. Did you see John J. Murphy there upon any occasion?
A. I did not see him in Topeka at all.
Q. How often were you around Mr. Pomeroy's rooms?
A. I was only in Topeka three days during the canvass—or four days.
Q. What days?
A. On the Friday preceding the vote; and Monday, Tuesday, and Wednesday of the week of the election.
Q. Do you know anything about Mr. Pomeroy's using money?
A. I do not.
Q. To your own knowledge, was any money, directly or indirectly, used there?
A. No, sir.
Q. During the time of your presence there were you in consultation with Mr. Pomeroy and his friends?
A. I conversed with Mr. Pomeroy and his friends—yes, sir.
Q. Was there any talk about using money?
A. It was distinctly stated that there was to be none used.
Q. You have how many deputies in the State of Kansas?
A. I have five at this time.
Q. Did Mr. Pomeroy ever exercise any control over the politics of those deputies?
A. I think not. Three of them were bitterly opposed to him.
Q. How was it with your deputy in Mr. Pomeroy's town during the canvass, and always?
A. He is as malignant an anti-Pomeroy man as there is in Kansas.
Q. And in Mr. Pomeroy's own town?
A. Yes, sir.
Q. Well known to Mr. Pomeroy and to me?
A. Yes, sir.
Q. Did we ever ask or suggest any change?
A. No, sir; and I should not have made it if you had.
Q. There was not much tyranny over you in your office?
A. No, sir.
Q. Give that gentleman's name.
A. Benjamin B. Gale.
Q. Was he at Topeka at this time?
A. He was at Topeka; I do not know about the time.
Q. Was he a lobbyist? Was he not the sole lobbyist?
A. None of my deputies are lobbyists.

WASHINGTON, D. C., *Monday, February* 24, 1873.

DANIEL H. HORNE sworn and examined.

By Mr. HORTON:

Question. Where do you reside?

Answer. I reside in the city of Topeka, State of Kansas.

Q. What is your age?

A. Forty-four years old.

Q. How long have you resided in Kansas?

A. Between eighteen and nineteen years.

Q. How long have you resided in Topeka?

A. I have resided in Topeka all the time since I have lived in Kansas.

Q. Were you present at Topeka during the senatorial election?

A. I was.

Q. Were you frequently around the room of Mr. Pomeroy?

A. Yes, sir.

Q. How frequently? Just state.

A. I was there about all the time.

Q. All the time from when?

A. During the senatorial canvass I was.

Q. Do you know Mr. Billings, a member from Norton County, mentioned in Mr. York's testimony?

A. I do.

Q. How did that member stand? Did you have any conversation with him?

A. I did.

Q. How was he on his first arrival at Topeka—for or against Mr. Pomeroy?

A. He said he was for Mr. Pomeroy first, last, and all the time.

Mr. THURMAN. On what page is he referred to?

Mr. HORTON. On page 31 Mr. York says: "The third circumstance that excited my suspicion was that there was a young man, a member of the legislature, by the name of Billings, whom I saw about 11 o'clock that night—I think it was about that time Saturday night; any way, late in the evening, in the bar-room of the Tefft House—speaking very emphatically in favor of Mr. Pomeroy, and declaring that he was going to vote for him; and he repeated several times that Mr. Pomeroy's money had not bought him."

By Mr. HORTON:

Q. State if he said anything about his instructions from his county before coming there, and what the understanding was.

A. I never understood him to say anything about his instructions, only he was an outspoken Pomeroy man from the start.

Q. Were you well acquainted with him? I mean so far as seeing him there?

A. I formed his acquaintance there soon after he got there.

Q. Had he ever been counted or called an anti-Pomeroy man?

A. I think not. We always counted him a positive Pomeroy man.

Q. What do you know about the rooms of Mr. Pomeroy being deserted on Saturday previous to the senatorial election?

A. The legislature adjourned on Saturday over to Monday, and, of course, many of the members went away—those living on railroads—and the rooms were not so much crowded during that Saturday afternoon, and up to Monday, as they had been.

Q. How long had you been acquainted with Mr. Pomeroy?

A. I had been acquainted with Senator Pomeroy between eighteen and nineteen years.

Q. Were you upon confidential relations there with Mr. Pomeroy among his friends?

A. I was.

Q. Do you know of Mr. Pomeroy using any money, either by himself or his friends, to secure any vote?

A. I do not.

Q. Did you ever hear him say anything about the use of money during that election?

A. I have heard him say he would use no money for the purpose of procuring votes; and if he could not be returned to the Senate without the use of money he did not want to be returned at all.

Q. Who were the members of the election committee of the legislature?

A. Mr. Bowers was chairman; Mr. Motz, Mr. Simpson, Mr. Titus, and Mr. Fields.

Q. Do you know Mr. Fields?

A. Yes, sir.

Q. How did he vote upon the first day?

A. On Tuesday he voted for Dr. Logan, of Leavenworth.

Q. Do you recollect how he voted the second day?

A. I think he voted for Mr. Ingalls.

Q. How did the other members of that committee vote upon the first day in the house?

A. For Mr. Pomeroy.

Q. Do you recollect how they reported in regard to the question of Mr. Rohrabacher and his contestant?

A. They reported adversely to Mr. Rohrabacher.

Q. How did Mr. Miller vote, who was admitted in Rohrabacher's place?

A. For Mr. Pomeroy.

Q. Were you present at the joint convention in the house upon Wednesday the 29th?

A. I was.

Q. Did you hear the statement or speech made by Mr. York?

A. I did.

Q. What was the manner of that address—I mean his actions?

A. It was rather exciting—dramatic.

Q. What did he do—about his hands?

A. Well, he held them up part of the time, and made a statement that what he had said, holding up both hands, was God's truth, and nothing but the truth.

Q. Did he say anything about members having money in their pockets?

A. He said he knew of members of the house upon that floor who had Pomeroy's money burning in their pockets, and he could name them, and at the proper time he would do so.

Q. Did he say who had told him that?

A. No, sir; I do not think he did.

Q. Did he say anything about Mr. Pomeroy telling him?

A. I think not.

Q. After the address had been made by Mr. York, who was it among Mr. Pomeroy's friends that first made a speech in opposition to him?

A. I think Senator Price made an address—Mr. Price from Doniphan County.

Q. What was the subject of his address?

A. He stated that he was very much confounded by the statement made by Mr. York, and was wholly unprepared to vote.

Q. Who moved a recess immediately after that?

A. Mr. C. C. Hutchinson.

Q. Was he friendly or unfriendly to Mr. Pomeroy?

A. He was friendly to Mr. Pomeroy.

Q. What did he give as a reason for the recess?

A. He said he wanted a little time to see what Mr. Pomeroy had to say, and let him have a chance to make a statement; that it was unfair to press the election at that time.

Q. Was there any recess had?

A. I think not.

Q. Do you recollect whether the ayes and noes were called at all on the question of the recess?

A. I do not think they were—at least not while I was there. I did not stay there all the time.

Q. Were you not present during all the time?

A. I was present until they got about two-thirds done voting, and then I went out.

Q. Voting for Senator?

A. Yes, sir.

Q. What was Mr. York's action as to the recess?

A. He opposed taking any recess or adjournment.

Q. For what reason?

A. He said the coyotes of Pomeroy would get together and contrive some plan to win, or something of that kind.

Q. Was anything said by him to this effect: that the purpose and object of this disclosure would be defeated if this recess was granted?

A. I think he used an expression something near that.

By Mr. SIMPSON:

Q. Do you know directly or indirectly of any member of the legislature having been approached to vote for Mr. Pomeroy for money?

A. I do not, sir.

Q. Do you know W. E. Towner, one of the clerks of the senate committees?

A. I do.

Q. Do you know what county he resides in?

A. I think in Clay, but I am not positive.

Q. Do you know Mr. Stratton, a member of the house from Clay county?

A. Yes, sir.

Q. Did you have any conversation with Mr. Towner in relation to securing the vote of Mr. Stratton?

A. I did.

Q. Did you ever say to Mr. Towner that Mr. Stratton could have $500 for his vote?

A. I never did.

Q. Did you have any conversation with Mr. Towner in which a money proposition was made by you to him in reference to Mr. Stratton?

A. I never did.

Q. Did you ever make an agreement with William E. Towner, of Clay county, that you would place $500 in Mr. Towner's hands to be delivered by Towner to Stratton after Stratton had voted for Mr. Pomeroy?

A. No sir; I never did.

Q. You never had any such agreement or understanding?
A. No sir.

By Mr. HORTON:

Q. Did you have any authority from Mr. Pomeroy or his friends to make any such agreement, or any other?
A. I never had.

By Mr. THURMAN:

Q. What is your occupation?
A. I am a real estate agent in the city of Topeka.
Q. Were you in Mr. Pomeroy's counsels—one of his intimate friends?
A. I was.

By Mr. HORTON:

Q. Are you a member of the city council of Topeka?
A. I am president of the city council of Topeka.

By Mr. SIMPSON:

Q. As a real estate agent, have you any property of Mr. Pomeroy to sell?
A. No, sir.
Q. Any Pottawatomie lands to sell?
A. I have Pottawatomie lands for sale.
Q. Who placed them with you as agent?
A. General Tom Ewing, jr.
Q. Whose are they?
A. They belong to General Ewing.
Q. Any of Mr. Gaylord's?
A. I have land to sell for Mr. Gaylord, and other parties.
Q. How much land?
A. Thirty thousand acres, perhaps.
Q. What connection is there between Mr. Gaylord and Mr. Pomeroy?
A. I do not know of any, except that Mr. Gaylord was some relation to Mr. Pomeroy's first wife, I think.
Q. You have made a statement about what took place in the joint convention; did you take any memorandum of the action of that joint convention at the time?
A. I did not.
Q. You make this statement simply from recollection?
A. Yes, sir.
Q. Did you make any memorandum of the remarks made by Mr. York?
A. I did not.
Q. You state that just from recollection?
A. Yes, sir.
Q. Now you state that Mr. York said he knew of members of the house who had Mr. Pomeroy's money burning in their pockets, and at the proper time he would name them?
A. Yes, sir.
Q. He made that statement?
A. Yes, sir.
Q. At least that is your recollection?
A. He said "members of the house upon this floor." That was the expression he used.
Q. Anything else said in that connection?
A. He said he could name them, and at the proper time he would do so.

Q. Was that all the sentence?

A. I think it was.

Q. That was all he said in reference to that matter?

A. All in reference to the members having Mr. Pomeroy's money.

Q. Who next spoke after Mr. York spoke? who next addressed the convention after Mr. York addressed it?

A. I am not positive whether Mr. Guerin or Mr. Johnson.

Q. Did Mr. Guerin address the convention?

A. I think he did.

Q. Upon what subject?

A. Well, upon the subject of adjournment, I think.

Q. Do you not recollect what Mr. Guerin said?

A. Not all; I do not remember all he said.

Q. Do you recollect a single statement that Mr. Guerin made in his address to the joint convention?

A. I recollect some statement he made when he explained his vote. He first voted for Mr. Lowe, and then changed to Mr. Ingalls.

Q. But you said that after Colonel York addressed the joint convention either Mr. Johnson or Mr. Guerin addressed the convention, and now you have skipped down to the explanation of their votes, which was a couple of hours afterwards. Do you recollect a single statement that Mr. Guerin made in his address to the joint convention?

A. No, sir, I do not know as I do.

Q. Do you recollect distinctly that Mr. Guerin made any address at all to that joint convention following Colonel York?

A. I cannot say that he did, immediately. I recollect hearing him speak.

Q. Who next addressed the joint convention after Colonel York addressed it?

A. My impression is a member of the house said something.

Q. What member of the house?

A. I am not acquainted with the member.

Q. What did the member of the house address the joint convention about?

A. Something in regard to his having been approached, I think.

Q. Was that Mr. Bateman, from Franklin county?

A. I do not know Mr. Bateman.

Q. You do not know whether he was from Franklin county or not?

A. I do not know.

Q. You do not know whether the member who addressed the house after Mr. York was from Franklin county?

A. I do not remember. I recollect seeing the man get up.

Q. How did you know he was a member of the house?

A. He was sitting with the members of the house, and spoke as a member of the house.

Q. Do you recollect anything that that member of the house stated?

A. I recollect the substance. It was that he had been approached.

Q. Why is it that you recollect the exact language of Colonel York, and you cannot recollect a similar statement upon the part of a member of the house?

A. Mr. York's statement made a decided impression on my mind at the time. I was very much surprised, and paid some attention to his whole statement.

Q. And it is because you were so much surprised you recollect so well, is it?

A. Perhaps so; I paid particular attention to his statement.

Q. Did the statement made by the member of the house surprise you any at all?

A. Somewhat.

Q. Do you know who addressed that joint convention just after Mr. York took his seat? Who was next recognized and addressed the convention?

A. I do not know as I can state the one that followed Mr. York.

Q. Do you know whether Senator W. A. Johnson, of Anderson, addressed the joint convention?

A. I recollect hearing him speak.

Q. Do you know what he said?

A. No; I cannot tell all he said.

Q. Where were you standing? Were you close to Mr. York?

A. I was sitting close to the speaker's desk.

Q. Were not the members of the Senate ranged in a semicircle around the speaker's desk?

A. Yes, sir; immediately next to the speaker's desk.

Q. You know Senator W. A. Johnson, of Anderson county?

A. Yes, sir.

Q. Do you recollect that he made an address shortly after Mr. York?

A. I recollect that he spoke; I think he did.

Q. Do you recollect whether he said anything about members of the house having the money of Mr. Pomeroy in their pockets?

A. No, sir; not Senator Johnson.

Q. You state that Senator Johnson, according to your recollection, made no statement in reference to members upon the floor having money of Mr. Pomeroy in their pockets?

A. I do not remember it.

Q. Did you hear any other members of the house make use of that expression except Mr. York?

A. No, sir.

Q. Can you state the expression used by any other gentleman? Can you give to the Committee a single sentence or expression used by any other member of the joint convention, when they addressed the convention, except Mr. York? Have you any recollection of what they said?

A. I recollect the substance of what a great many said.

Q. Who did address the joint convention?

A. Mr. C. C. Hutchinson.

Q. What did he say?

A. He wanted the convention to take a recess until five o'clock.

Q. When was that?

A. I think it was in the neighborhood of two o'clock.

By Mr. THURMAN:

Q. Were there any phonographic reporters in that joint convention?

Mr. HORTON. I do not think so.

Mr. SIMPSON. I think not.

Mr. YORK. I will state in regard to that: There was a young man, by the name of Noble, who took a partial short-hand report, and he furnished a copy as nearly as he could to the "South Kansas Tribune"—the only copy I have seen in print; and that copy he stated was only a partial short-hand report.

Mr. HORTON. There was no short-hand writer there.

Mr. THURMAN. There are no official reporters there?

Mr. HORTON. None.

By Mr. SIMPSON:

Q. After Colonel York addressed that joint convention did not Senator Johnson address it next?

A. I am not positive about that. I will state to the Committee, that during Senator York's statement it was perfectly still and quiet, and as soon as he had got through his statement parties were more or less speculating upon it; some saying it was a fraud and put-up job; and I did not pay as much attention to what was said afterward as before. It was very still during Mr. York's statement. He had the attention of the whole house. After he made his statement parties were speaking to me, and asking me what I thought about that, and taking my attention a good deal, and I did not pay as much attention to the remarks of other parties.

Q. Then you have no distinct recollection as to the other gentlemen who addressed the joint convention and what they said?

A. No, sir; only talking about adjournment and taking a recess. It was opposed on one side and advocated on the other. I recollect that.

Q. Do you recollect the vote on the question of adjournment?

A. I do not.

Q. It was a *viva voce* vote was it not? The roll was not called?

A. I am not positive about that.

Q. Did you not state awhile ago, in response to Judge Horton, that the roll was not called?

A. I do not think it was called while I was there. I went out soon afterward.

Q. You did not go out till after they had commenced to vote for senators?

A. No, sir.

Q. And you say they were two-thirds through?

A. Yes, sir.

Q. I am talking of the vote on adjournment. Now, was not the proposition to adjourn voted down by a large majority?

A. It was voted down.

Q. Do you recollect how that vote was taken?

A. I think it was a *viva voce* vote; I do not think the roll was called.

Q. Do you know what business had been transacted in that joint convention before Colonel York took the floor and made this statement?

A. I do not think there had been any business, particularly, more than organizing the convention.

Q. Had there been any nominations made prior to that time?

A. I think there were nominations made.

Q. By whom? Do you recollect?

A. I think Judge Lowe was placed in nomination by Mr. Guerin.

Q. You think Judge Lowe was placed in nomination by Mr. Guerin? That is your recollection?

A. That is my recollection.

Q. Is your recollection as good about that fact as it is about the language of Colonel York?

A. I do not think it is, as I was not paying so much attention to that as to Colonel York's statement.

Q. Is it not the fact that Mr. Guerin nominated Mr. Ingalls, and not Mr. Lowe? Do you not know that Mr. Guerin was the first gentleman recognized by the lieutenant-governor on the floor of the joint convention, and that he placed in nomination John J. Ingalls, of Atchison?

A. I think he did before the voting commenced; but afterward he put in nomination Mr. Lowe, and voted for him.

Q. I am talking about the first; you stated the first thing done was, Mr. Guerin nominated Mr. Lowe?

A. I think he first nominated Mr. Ingalls and afterward nominated Mr. Lowe.

WASHINGTON, D. C.,
Monday, February 24, 1873.

R. W. WRIGHT sworn and examined.

By Mr. HORTON:

Q. Doctor, what is your residence, age, and business?

A. My residence is in the city of Oswego Kansas; my age, 48.

Q. Were you connected with a paper?

A. I reported for the Oswego Independent.

Q. Were you in the joint convention at Topeka, on the 29th of January, as a reporter?

A. I was there partially for that, sir.

Q. State what was the vote. Have you the roll of the first vote as taken by you?

A. I have, sir.

Q. How many candidates were voted for in the legislature on the first day?

A. On the first day Mr. Pomeroy received——

Q. How many were voted for?

A. Nine candidates.

Q. Give the number of votes received by each candidate?

Mr. SIMPSON. He is inquiring about the number of candidates, and the number of votes each received, opening up a question that is not before the committee, which we are not prepared to meet just now.

Mr. HORTON. We can agree on the number.

Mr. SIMPSON. But it is not material.

Mr. HORTON. One witness stated that Mr. Fields was paid money; we want to show how he voted on the first day and on the second day. Another witness said that Mr. Bond said that as soon as Doctor Logan was out of the way he would vote for Mr. Pomeroy. We desire to show that he was a candidate, and how few votes he received on the first and what a large vote was received by Mr. Pomeroy on the first day, thus showing whether these witnesses have stated correctly. The counsel and myself in a few moments can agree on the number of votes received on the first day by the respective candidates.

The CHAIRMAN. The examination has been very broad on both sides; you may proceed.

By Mr. HORTON:

Q. How many candidates were voted for, for Senator, on the first day?

A. Nine.

Q. How many votes did Mr. Pomeroy receive?

A. In the house he had forty votes.

Q. In the senate and house, both together?

A. Fifty votes.

Q. How many votes in all did Mr. Logan receive?

A. Mr. Logan received eleven votes in the house, and five, I believe,

in the senate; I was not in the senate and could not report it myself. I took that from the paper.

Q. On the first day Mr. Pomeroy received fifty votes?

A. Yes, sir.

Q. Do you recollect what was the majority of all present in the convention?

A. Seventy-six, I believe, was the majority.

Q. Seventy-six or sixty-six?

A. Sixty-six, sir.

Q. Were you present at the joint convention on the 29th?

A. I was.

Q. Where did you sit in the convention?

A. I sat at a table near the speaker's stand, right in front, or left, of the speaker of the house.

Q. Did you hear Mr. York's address?

A. Yes, sir.

Q. What was the manner of it? I do not ask for the words.

A. The manner of Mr. York's address was this: He commenced, saying that he rose to a question of privilege, I think. The speaker recognized him; I did not know what was going to occur; the nomination had been made; Captain Mapes, of Labette County, I think, nominated Mr. Pomeroy in behalf of the settlers on the Osage lands, and made a little speech in favor of Mr. Pomeroy. Mr. Guerin nominated Mr. Ingalls, of Atchison, and made a short speech upon the nomination. Then, of course, we expected the voting to commence, and I believe the voting did commence; I believe there was one ballot cast. There was considerable parleying at first, and Mr. York rose and commenced. Many of Mr. Pomeroy's friends, when he arose to his feet, from what he said, at once supposed he was going to nominate Mr. Pomeroy, or rather to second his nomination. He immediately turned, as he rose to his feet, to verify what he was going to say, as by oath or affirmation as to the truth, and it seemed to make an impression upon the audience that he had something to reveal to the members present, and all who were there. Then he commenced a tirade upon Mr. Pomeroy, and stated that this was the first time in his life that he had ever been offered a bribe; he spoke of having two children at home whom he did not wish to disgrace, &c., and a great deal of words which I cannot now remember, but all the same thing or import.

Q. Outside of Mr. Pomeroy, what did he say about members?

A. After he got through and placed the money on the table, he said, "That is the money, the $7,000." I sat almost near enough to him to touch him at the time he came forward to lay the money on the table, and then turned and said these words, as near as I can remember: "There are others—five or six others—in this house, upon this floor, who have Mr. Pomeroy's money now burning in their pockets, and, at the proper time, I will give their names." I believe those were his exact words. I put them down at the time, and they made an impression upon my mind, for I thought that if that was the case, and if he had received $7,000, and he knew of five or six others who had money then burning in their pockets, that that was sufficient.

By the CHAIRMAN:

Q. State what occurred, and not what you thought.

A. It made an impression on my mind. Further, he said Mr. Pomeroy told him their names and the amounts he had given to the different ones for their votes.

By Mr. HORTON:

Q. State how he closed that address; as to his language.

A. Mr. York appealed to High Heaven to the truth of what he was saying, raising his hand up.

Q. Do you know Senator Price?

A. I do.

Q. Was he friendly or unfriendly to Mr. Pomeroy?

A. Mr. Price got up and replied to Mr. York; he tried to reply to him, but the enemies of Mr. Pomeroy hissed him down, so that we could not hear what we were saying. They hissed all over the house. Every one who was there will remember the hiss was all over the house, among the enemies of Mr. Pomeroy.

Q. Was there disorder?

A. Disorder commenced, and it was difficult to hear what they were saying; and the speaker sat perfectly quiet and paid no attention to it. I was very much surprised to see that.

Q. Was Mr. Stover, the speaker, friendly or unfriendly to Mr. Pomeroy?

A. I do not know. I judged from his action that he seemed to be pleased with the conduct presented.

The CHAIRMAN. State the facts.

The WITNESS. That is all I know about it.

By Mr. HORTON:

Q. Do you know whether he was opposed to or in favor of Mr. Pomeroy?

A. I supposed that he was opposed to him; I had heard him speak against him in conversation.

Q. Do you know C. C. Hutchinson?

A. I do.

Q. Was he favorable or unfavorable to Mr. Pomeroy?

A. He was favorable to Mr. Pomeroy.

Q. Did he make any motion for a recess?

A. He moved a recess until 5 o'clock.

Q. For what reason; did he state?

A. That they were unprepared for the revelation that had been made. He said, "It is but just to allow a recess for examination into this matter in order to give Mr. Pomeroy a hearing;" but he was hissed down also.

Q. State whether Mr. York favored or opposed a recess?

A. After one or two others—I do not remember their names—I do remember what they said. Mr. York got up soon after and made this remark: "That is just what the friends of Mr. Pomeroy want; they want an opportunity to get together and try and defeat the very object for which this was gotten up."

Q. Did he strenuously oppose an adjournment?

A. He did, emphatically.

Q. Was there any adjournment then?

A. There was none.

Q. Do you recollect whether the vote was taken on the question of adjournment by the calling of the roll?

A. I think there was a motion but I do not know but it was seconded, for I could not see, as there was such an uproar, but the noes came up from all parts of the house. The floor was crowded between the members' seats by lobyists; there was no standing room left; every place was occupied, and you could not tell who voted aye or no; in fact, all the members were mixed up with lobbyists.

Q. Were you frequently in Mr. Pomeroy's room during the canvass?

A. Yes, sir.

Q. What did he say about the use of money?

A. Mr. Creighton, the senator from our county, had been opposed to Mr. Pomeroy and I had tried to convince him that Mr. Pomeroy was the best, especially for us in Southern Kansas. He has labored for our people; had extended the time upon the payment of the Osage lands during the hard times, had been of great benefit to the settlers; and I thought, above all others; he should support Mr. Pomeroy. Mr. Creighton said, "There is such a rumor against Mr. Pomeroy by the anti-Pomeroy men that they are ready to anathematize a man that says Pomeroy, and I am going to see Mr. Pomeroy and have a talk with him." I went with Mr. Creighton to see Mr. Pomeroy, or was in the room. Mr. Creighton told Mr. Pomeroy what they had said. Mr. Pomeroy reached to the table and took up a piece of paper like this (illustrating) and said he to Mr. Creighton, "If I go back to the United States Senate I shall go back as clear as that sheet of paper or I shall not return at all." Mr. Creighton said, "I am satisfied; I know nothing against you myself only from these things that are reported, and I want to talk to you myself and satisfy myself." Mr. Creighton left that room and told me afterward that he was satisfied that Mr. Pomeroy was not guilty, and he wanted to have a talk with him himself. This was Saturday night.

Q. Did Mr. Creighton support him after that?

A. He voted for him.

Q. Do you know, directly or indirectly, of Mr. Pomeroy using any money at Topeka during the senatorial canvass?

A. I do not.

Q. Do you know or not of his friends using any money with any members, directly or indirectly, to influence their votes?

A. I do not.

Q. Do you know Senator Johnson, one of the members in this plot, and pledged to secrecy?

A. I do.

Q. State whether you had any conversation with him.

A. I had a conversation with Mr. Johnson and others—enemies of Mr. Pomeroy—just before the senatorial election, at the Tefft House. I met Mr. Johnson one morning and was referring to the means which were used to defeat Mr. Pomeroy, and I spoke of some of them as being unmanly, and, as I thought, very unjust, and he said it did not make any difference, just or unjust, they were bound to defeat him, and it didn't make any difference what it cost or what means were used. Said he, "He is a damned old rascal, anyhow, and we are bound to defeat him."

Q. Was that statement made by Senator Johnson?

A. Yes, sir.

Q. Where?

A. At the foot of the stairs, near the door, at the entrance of the stairs.

By Mr. VICKERS:

Q. How long before the election was that?

A. That was on Tuesday morning; before the first ballot.

By Mr. SIMPSON:

Q. What did you say your name was?

A. Wright.

Q. What are the initials?

A. R. W.

Q. Where do you live?
A. In the city of Oswego.
Q. How long have you lived there?
A. Six years.
Q. What is your business?
A. My business is—I have had a drug-store for a time and practiced medicine, but I quit practicing medicine and went into real estate and other business in our place; I occasionally practice yet, when I am at home; when my friends need me I go and see them.
Q. Are you connected with any railroad project?
A. I am not; I am not a director of any railroad or interested in any railroad, except I have been interested in working up an east and west road through Labette County, a branch of the Atlantic and Pacific Railroad; I was one of the first promoters of the enterprise.
Q. What is it called?
A. The Memphis, Carthage and Northwestern Road.
Q. Do you know anything about the Budlong bonds?
A. I have heard something about it in the papers, that is all; Mr. Budlong is here in the city to-day.
Q. Do you know anything about it?
A. I know nothing about it except what I see in the papers.
Q. How did you happen to have this conversation with Mr. Johnson?
A. It happened as it did with many others who I had conversations with; I was an active Pomeroy man, and when I heard them accuse him of acts that I thought he was not guilty of I spoke friendly and defended him.
Q. How did you meet him?
A. I met him at the foot of the Tefft House stairs, near the office. I had an affidavit that had been circulated by the enemies of Mr. Pomeroy in my hand, and I referred to it.
Q. When was this?
A. Tuesday morning. The paper was gotten out Sunday morning.
Q. What affidavit was that?
A. An affidavit of persons purporting to live in Washington against Mr. Pomeroy. I was referring to that.
Q. Who was present at that conversation?
A. I do not remember any one; I was directing my conversation to Mr. Johnson. We had a friendly conversation. I had deprecated the means used and he made this reply——
Q. Was that all the conversation?
A. It was all I remember of except that he made a great many other charges against Mr. Pomeroy—that he knew him great deal better than I did, &c.
Q. Who commenced that conversation?
A. I did, by showing him the affidavit.
Q. You showed him the affidavit?
A. Yes, sir; I was speaking of it.
Q. You had a copy of it in your hands?
A. Yes, sir.
Q. What did you say to him?
A. I said, I think, it was malicious.
Q. Was that the first word spoken?
A. Not only that; I said, furthermore, that the very man that brought those affidavits to the State had sent men to Mr. Pomeroy and said that if he would give him one thousand dollars he would suppress the affidavits. I referred him to that fact and asked him if that was not a

A. Yes, sir.

Q. Then you were in the joint convention as a reporter for a newspaper?

A. Yes, sir.

Q. Did you make a report?

A. Yes, sir, I did.

Q. Did you have it published?

A. I did not have it published; I sent it to Mr. McGill; I suppose Mr. McGill would publish it.

Q. Was it published?

A. I do not know; I have been away from home ever since.

Q. You do not know whether that report was published or not?

A. No, sir.

Q. What was the name of the newspaper?

A. The Oswego Independent.

Q. Your recollection is the first thing after the joint convention was called to order was that Captain Mapes, of Labette County, nominated Mr. Pomeroy?

A. Yes, sir; that is my recollection.

Q. Was that in the joint convention or on the previous day when the house balloted separately?

A. I think it was in joint convention.

Q. You insist that Captain Maples made the nomination in joint convention?

A. I am pretty sure of it.

Q. That is your recollection of it?

A. Yes, sir.

Q. Then Mr. Guerin nominated Mr. Ingalls?

A. Yes, sir.

Q. Was Mr. McGill editor of the paper then in Topeka?

A. He was in Topeka, also; he was there taking notes himself.

Q. Then you say Mr. Guerin nominated Mr. Ingalls?

A. Yes, sir.

Q. Your recollection is that the roll then was commenced to be called

A. The roll of members was called and they answered to their names

Q. Whose name was called?

A. Mr. Adams, I think, stands at the head of the list, David Adams, (consulting a roll.)

Q. Do you not know, sir, that in joint convention the names of senators are first called?

A. This was the house list.

Q. You looked at that list and said Adams's name was first called. Now do you not know that in the joint convention the names of senators were first called?

A. Of course.

Q. Then it could not have been Adams's name that was first called?

A. I had hold of the wrong list; I could not remember the names; I did not know Mr. Adams; I was not acquainted with him personally.

Q. You do not remember it as a matter of fact from your memory?

A. I am very sure one name was called.

Q. Who was that?

A. According to the list it was Mr. Blair.

Q. Do you know that without looking on the list?

A. I am pretty positive it was him.

Q. What made you state a while ago that Adams's name was first called?

A. I think Adams's name was in the senate instead of the house; I have the list here.

Q. Is it not the fact that you stated that the name of Adams was called simply because you had the house list and happened to see his name there, but did not recollect that in joint convention the senators are called first?

A. If you will ask the question directly, I will try to answer it.

Q. Did you not swear just now that the name of Adams was the first name called, simply because you looked at that house list and saw that Adams's was the first name?

A. I had the list and it drew my attention to the name, of course, but I know upon looking now that it was Blair.

Q. You say Adams was the first name upon the roll you looked at, but you really have no positive recollection upon the matter at all?

A. You will see when I get through my evidence whether I have any recollection.

Q. Have you any positive recollection about it?

A. I have now when I refresh my recollection, and I know who was at the head of the list in the house, and who in the senate. Mr. Blair was at the head of the list in the senate. I stand corrected on that point. Mr. Blair was the one first called.

Q. Now, after your recollection is refreshed, you swear positively before this committee that the roll had commenced to be called before Mr. York took the floor of the joint convention?

A. That is my understanding and my impression. I am pretty positive of that; that the first name was called.

Q. Do you recollect that fact just as positively as any other in connection with this matter?

A. I do.

Q. Who called that roll; do you recollect?

A. Yes, sir.

Q. Who?

A. Mr. Crother.

Q. What position does he occupy?

A. Clerk of the senate.

Q. Was there any more than one name called?

A. I think not. I think that Mr. York got up immediately upon the question of privilege to speak.

Q. Did Mr. Blair vote?

A. My impression is that he did.

Q. Who did he vote for?

A. My impression is that he voted for Mr. Ingalls.

Q. Then, after the roll had begun to be called, and one name, Blair, had been called, and Blair had voted for Mr. Ingalls, Mr. York took the floor?

A. Yes, sir.

Q. That is your recollection of what occurred?

A. Yes, sir; that is my recollection.

Q. Do you recollect how Mr. York commenced that address?

A. I do.

Q. State it.

A. As I stated, he commenced by some remarks, and at first I thought, from his manner, he was going to nominate Mr. Pomeroy.

Q. State what he said; not what you thought.

A. He said he had some remarks to make in regard to voting. He said that he came there to vote for Mr. Pomeroy; that led me to think he was going to nominate him. After, he said why he came there to vote for Mr. Pomeroy——

Q. Stop there——

A. He soon after laid the money down, and then gave his reasons why he would vote for him; that he had purchased him——

Q. You say after he had said why; what reason did Mr. York give, in the address, why he should vote for Mr. Pomeroy?

A. I think he appealed to the members present, in view of his pledge to Mr. Pomeroy to vote for him, as to whether, under the circumstances, he should now do it, and the crowd said, "No, no!" I believe every one present will remember the noes that came from all over the crowd everywhere.

Q. Do you swear here that during the delivery of the address of Colonel York a single response was made by any member of the crowd? Do you swear that?

A. I will swear that I could not tell whether it was from a member or by-stander or lobbyist. The crowd were hissing everywhere and talking.

Q. Do you swear that a single word was said in response to any remark made by Colonel York during the delivery of his address?

A. By other than members?

Q. By anybody inside of the capitol building.

A. While he was speaking?

Q. Yes.

A. No, sir. I said everything was perfectly silent. It made the impression upon every one; that is the reason I remember so well.

Q. Did you not state just now that when Colonel York appealed to the members, and asked if he should live up to his pledge and vote for Mr. Pomeroy, they said "No, no!"

A. In answer to the question, yes, sir; I said that.

Q. You still say so?

A. Yes, sir; but otherwise it was perfectly silent during the whole of the revelation.

Q. You state that during the delivery of the address of Mr. York on the floor of the joint convention at the time when Colonel York addressed an inquiry to members of the house, asking them whether he (York)

should live up to his pledge to vote for Mr. Pomeroy under the circumstances, that responses came from various parts of the house "No! no! no!"

A. I say so.

Q. You state that?

A. Yes, sir.

Q. You will state to the committee whether that was in the first or last part of the address.

A. That was in the first address; he made two addresses.

Q. I am asking about the address in which the *exposé* was made.

A. It was made as soon as he laid the money down and explained how he came to pledge himself. He then asked if, under the circumstances, he should vote for Mr. Pomeroy, and they answered him, "No, no!" at that particular time.

Q. What else did Colonel York say?

A. He said he was now about 33 years of age, and this was the first time in his life that a bribe had been offered him.

Q. In what part of his address was that?

A. That was before he asked the question; and he made many other remarks which made an impression on my mind at the time.

Mr. THURMAN. The committee would like to know wherein there is any difference between the parties here as to what was said by Colonel York in that case. What is the particular expression attributed to Mr. York by Mr. Pomeroy which you, Mr. Simpson, deny was said by him?

Mr. HORTON. We claim that Mr. York at the close of his address raised his hands and said, in making affirmation, that every word he uttered in that statement was God's truth.

Mr. THURMAN. So your witnesses testify.

Mr. HORTON. Secondly, that in that address he said that there was a number of persons on the floor of the house, members, who had Pomeroy's money in their pockets, and that Mr. Pomeroy, in his disclosures, had told him the names of those to whom he had paid, and the amounts he had paid to each.

Mr. THURMAN. Is it denied that Mr. York made this statement?

Mr. SIMPSON. His testimony is before the committee. The other side give a construction to his words that he denies.

Mr. HORTON. I put the question to Mr. York himself whether he used that language, and he said he did not know whether he said it or not; that some said he did and some said he did not.

Mr. THURMAN. The point is whether there is any controversy as to what Colonel York did say.

Mr. SIMPSON. We rest upon the statement that Colonel York has made in evidence, and any statement, made by witness on the stand, differing from that, we have the right to cross-examine upon at length, not only for the purpose of fixing the language, but to test the general credibility of the witness.

Mr. THURMAN. You have a right to contest his memory; but Mr. York, when asked if he said certain things, replied that he was very much excited toward the close of his address, and he could not say whether he used that language or not; that some persons said that he did and some that he did not. Mr. Pomeroy now called witnesses to show that he did use that language. (To Mr. Simpson.) Do you absolutely deny that he said that?

Mr. SIMPSON. We do not absolutely deny it. We rest on the statement of Mr. York that he was somewhat excited when he spoke and does not now know; but they seek to prove affirmatively that he did

state just the words which they offer. I seek to establish by cross-examining this witness that Mr. York did not use the words as they claim. There is an issue about that question between us. (To the witness.) You state that Mr. York arose to a question of privilege, and so stated when he arose to address the presiding officer of the joint convention?

A. Yes, sir.

Q. You say you took down his words? What words of Mr. York did you take down—what expression?

A. The first expression he made—that he came there to vote for Mr. Pomeroy. I supposed he was going to second his nomination.

Q. Never mind your supposition. State what words you took down.

A. I took down, as I stated, those words.

Q. "I came here to vote for Mr. Pomeroy." Is that your recollection of what he said?

A. Yes, sir.

Q. What did you take those words down on?

A. On a piece of paper.

Q. Where is the paper?

A. I gave it to Mr. McGill.

Q. Was that the way Colonel York commenced his address before that joint convention?

A. He might have said other things which slipped my mind.

Q. You are positive in your recollection that he did say he came there to vote for Mr. Pomeroy?

A. Yes, sir.

Q. Another expression I want to call your attention to. Have you made any statement in relation to Mr. York, that he, York, was connected with a gang of horse-thieves in Southern Kansas?

A. I can tell you how that occurred.

Q. Just answer my question.

A. I made a statement that——

Mr. HORTON. That is immaterial.

The WITNESS. I can state what occurred.

Mr. SIMPSON. I am asking you questions.

The WITNESS. On my way to Saint Louis—I will state, inasmuch as it has been brought out, and I would like to explain it, for I do not want to do Mr. York injustice—on our way to Saint Louis, a reporter came to us in the hotel; Mr. Cox and myself were stopping there. He then spoke about this Kansas trouble to us. I remarked to the reporter, "If you take reports, sir, as truth, there would not be any one in Kansas that would be free from slander;" and, as an instance, I told him "There is Mr. York, a gentleman in our city, and a neighbor of his in Missouri, said he was in the business of stealing cattle in Missouri, but I do not believe that;" and this reporter did not put it down as stated by me.

Q. Then you did not make any such statement yourself?

A. No, sir.

By Mr. BUCKINGHAM:

Q. You state that some who opposed the adjournment of the joint convention, after the address of Mr. York, stated in substance that it would defeat the object for which it was gotten up?

A. Yes, sir.

Q. What do you mean by this?

A. I could not say what they meant by it; only Mr. York, the second time he arose to speak, in opposing the recess, or adjournment, stated that the Pomeroy men wanted that very chance; that that was just

what they wanted. Those were the words, that that was what they wanted, and that it would defeat the very object for which it was gotten up.

Q. I want to know that object—the object for which it was gotten up. Was it stated?

A. I think the object was stated; it was a plot to defeat Mr. Pomeroy, and this would defeat their object.

Q. You did not know their object?

A. I did not know it at the time.

Q. Do you know how it was gotten up?

A. I think I have learned since.

Q. Did you know then?

A. I did not know at that time.

By Mr. THURMAN:

Q. Did Mr. York say it would defeat their object?

A. Mr. York made the statement himself when he was opposing the recess.

Q. What statement?

A. That that was just what the Pomeroy men wanted—a recess. He stated that that was just what they wanted, and that that would defeat the very object for which it was gotten up.

Q. You say Colonel York used that language in his address to the joint convention?

A. Yes, sir; the second time he arose to his feet.

Q. That it would defeat the object for which this was gotten up?

A. Yes, sir.

At 1 o'clock and 45 minutes the committee took a recess until 3 o'clock.

WASHINGTON, D. C., *Monday, February* 24, 1873.

J. L. SHARP affirmed, and was examined.

By Mr. HORTON:

Question. Give your age and residence.

Answer. I will be forty on the 9th of next May; I live at Council Grove, Kansas.

Q. State whether or not you were at Topeka during the late senatorial election?

A. I was, sir.

Q. Were you at any time around the rooms occupied by Mr. Pomeroy?

A. I was, I believe, in the rooms occupied by Mr. Pomeroy as much as any other gentleman that was at Topeka.

Q. State if you know about the use of any money by him or his friends to influence members of the legislature in their votes?

A. None to my knowledge.

Q. Were you present at the proceedings of the joint convention at Topeka on the 29th of January last?

A. I was, sir.

Q. Where did you occupy a seat, in comparison with Senator York?

A. My recollection is that I was not over, at the farthest, more than ten feet from him, if that much.

Q. During how much of the joint convention were you present?

A. I was present up to the time that they commenced voting on United States Senator.

Q. Did you hear the address or speech made by Senator York on that occasion?

A. I did, sir.

Q. State what he said about money being in the pockets of members of the legislature, if anything.

A. I understood Mr. York to say emphatically, after he had made the announcement that he had received $7,000 from Senator Pomeroy for the purpose of voting for him, that there were—I think his language was—either five or six members of that convention who had Mr. Pomeroy's money burning in their pockets; that is my recollection.

Q. Do you recollect what position Mr. York took after the motion—first I will ask you, do you know C. C. Hutchinson?

A. Of Reno County?

Q. Yes, sir.

A. Yes, sir.

Q. How did he stand?

A. For Mr. Pomeroy, I understood.

Q. What did he say in making a motion for a recess?

A. He said it was so that the friends of Mr. Pomeroy could hear and see Mr. Pomeroy's side of the question, and whether this charge was correct or not.

Q. What did Mr. York say in response to that speech, or others similar?

A. I understood Senator York to rise, and, in objecting to a recess or adjournment, to say that if the friends of Pomeroy got down into the Tefft House, (and he applied some other epithet to it, I forget what, "a den of iniquity" or something of the kind,) that they would then and there hatch up some other scheme which would defeat the purpose for which this was gotten up.

Q. Was there a recess?

A. There was not, to my knowledge, sir.

Q. Are you acquainted with B. F. Simpson?

A. Yes, sir.

Q. Is that the B. F. Simpson referred to by Mr. York as being connected with this plot at Topeka?

A. I so understood him as the individual that Mr. Simpson referred to.

Q. State what conversation, if any, you had with Mr. Simpson, immediately following this election; I mean the senatorial election, and referring to it.

A. Well, sir, that is rather a delicate question. Mr. Simpson is a friend of mine, and I have always looked——

Mr. THURMAN. No matter; answer the question.

Mr. HORTON. The gentlemen on the other side do not seem to be delicate.

The WITNESS. On the Friday following, Mr. Simpson asked to have an interview. I had one with him in his room.

By Mr. HORTON:

Q. At what hotel?

A. In the Tefft House.

Q. In what city?

A. In the city of Topeka.

Q. What was then said to you by him?

A. Well, we were speaking over the result of the fight, and Mr. Simpson remarked that "they had beat the old man," and I remarked that I was sorry for it; and I said, "You know, Mr. Simpson, I have been a good friend of yours, and I was sorry there was any difficulty between the two." He said he knew that, and remarked, as near as I can recollect, that they had to do it; that it was the only way in which they could beat him; and he spoke in that connection of the prospects for other positions.

Q. What position was he to have in this scheme?

By Mr. THURMAN:

Q. State what he said?

A. Well, sir, he spoke to me relative to his prospects for United States Senator to fill a vacancy. I remarked, "Mr. Simpson, I was in this fight in good faith and in good earnest as a friend of Mr. Pomeroy's and a friend of yourself also, and," says I, "I am sorry that Mr. Pomeroy and you are at loggerheads as you have been; I think it could have been otherwise," or words to that effect. I will not be positive that this is the exact language, you understand. He remarked to me, it was the only way—but I am ahead of my story. I said to him, "If I have been deceived in Senator Pomeroy, because he has always disclaimed to me the use of money, time and again, and said that he would not use it; and that if he was elected to the United States Senate for the third time, that he must go with as clear a record as a piece of paper which he had picked up on the table on Friday in his room, and without blot or blemish;" and I said, "If I have been deceived, I don't propose to go into any more senatorial fights unless I get down to the bottom of it." Hence, says I, "I won't enter into any arrangement." He remarked, "I will tell you all about it;" and he then stated that this plot was originated by himself.

Q. State what he said; use his language as near as you can.

A. Well, "that myself, Colonel Eldridge, and Senator Johnson concluded that we must get a hold on Mr. Pomeroy and show that he was using money; we believed he was using money, but we could not get a hold on him, and we then sent for a Mr. Horton," who I did not know. I did not up to this time even know Senator Johnson. "We took Mr. Horton in." Mr. Simpson remarked that this man Horton had "the best political brain I ever saw;" and Horton suggested the course they must pursue. What course that was Mr. Simpson did not state to me, but, finally, when there was to be an inducement—I mean that he did not state to me the course that Mr. Horton should have suggested, or as that coming from Mr. Horton; but they finally concluded that he must be trapped in some way, and they must send some person to him to represent, if they could get a man to assume the responsibility. Senator Johnson remarked that he had a man named York that would take the responsibility; and then they made the arrangement that some gentleman must go (he did not give me his name) to Senator Pomeroy and impress him with the idea that this Mr. York could be got for him, but that he must have money; and in case Mr. Pomeroy didn't bite that they would have to resort to Colonel Eldridge, who was an enemy of Mr. York, for the means of accomplishing this object.

By Mr. HORTON:

Q. Colonel Eldridge an enemy of whom?

A. Of Mr. Pomeroy. That is about the substance of the conversation, as I remember it.

Q. You say something was said about a vacancy. What vacancy did he refer to?

A. He referred emphatically to taking the position of Senator Caldwell, in case he was defeated here in Washington—in case he was defeated for United States Senator.

Q. State what, if anything, was said as to what was to be done in case Senator Caldwell was not ousted, anything as to his obtaining any other position on account of this matter?

A. I understood him emphatically to say that he could get the position of district attorney or the judge.

Q. Of United States attorney, the position I have?

A. I do not know that your position was named; I do not remember that.

Q. Is this—the Mr. Simpson with whom you had that conversation—the same person who now appears here as the private counsel of this man York?

A. He is sitting right here at my right hand.

Q. Was he at Topeka during the entire senatorial election?

A. My recollection is that he was.

Q. Was he a member of the legistature holding any position officially?

A. None that I know of.

Q. Was he residing in Topeka?

A. He was not that I know of; I understand that his home is in Paola, Kansas.

Q. Was he a bitter enemy of Mr. Pomeroy in that entire election?

A. I understood him to be a political enemy of Mr. Pomeroy. I was very anxious that he and Mr. Pomeroy should make friends, and stated to him that Mr. Pomeroy was anxious to be a friend of his, if he could do so honestly and honorably, and further stated that I knew of my own personal knowledge that unless Mr. Pomeroy was a terrible hypocrite in his conversation with me that he had done nothing to the detriment of Mr. Simpson, although he had been charged with doing many things, and that he wished to be a friend of Mr. Simpson's if he could be honorably.

Q. Is this the same Mr. Simpson who petitioned the Senate of the United States for the enlargement of the duties of this committee?

A. I do not know about that; I was not present when the petition was handed in, but if he was the attorney, I presume he was the same one.

Q. The Mr. Horton he referred to, was that myself?

A. No, sir; I did not so understand it.

By Mr. SIMPSON:

Q. Mr. Sharp, you were present during the entire session of the joint convention, were you?

A. No, sir; I think I left after the time they commenced to ballot for Senator.

Q. How long was it between the assembling of the joint convention and the first ballot for Senator?

A. I could not say as to the length of time.

Q. Was it as much as two hours?

A. I do not think it was.

Q. Was it as much as one hour?

A. Yes; I think it was.

Q. You think it was one hour?

A. I will not be positive as to the time.

Q. Where did you go after you left the joint convention?
A. I went immediately down to Senator Pomeroy's room.
Q. You went immediately down to Senator Pomeroy's room?
A. Yes, sir; I said so.
Q. How far was it from the capitol building, in which the joint convention was held, to Senator Pomeroy's room?
A. I could not exactly tell you.
Q. How long would it take a man to walk it at an ordinary walk?
A. I do not know, I am sure.
Q. You have some idea; you have walked it many times?
A. I presume I could walk it in ten minutes' time.
Q. Or five minutes?
A. If I was in an extraordinary hurry, yes.
Q. Was it over three blocks?
A. I think probably two or three. I am not sure.
Q. But you could have walked it at an ordinary gait in ten minutes?
A. I think I could.
Q. You pretend to state here the words that Mr. York used upon that occasion?
A. I say that was about my understanding of the language he used. I think I so distinctly stated.
Q. Where did you sit or stand in that convention?
A. If you know, to the left of the speaker's desk there was a bookcase and a table—on the left hand of the speaker's desk.
Q. How far from the speaker's desk?
A. There was a table possibly of this length, (12 feet); I was sitting immediately at this end and occupying a position like this reporter and Dr. Wright sitting there.
Q. How far from Mr. York?
A. I suppose as far as from here to Mr. Pomeroy.
Q. How many feet?
A. Probably eight or nine feet. I distinctly state that I was not measuring distance at the time, as I was trying to listen. I was certainly taken by surprise in the announcement. Neither had I any idea of ever being called upon as a witness, or I should certainly have been more particular in measuring distances.
Q. You were listening?
A. Yes, sir; I think so.
Q. Was there any noise in the room which prevented your listening?
A. Not during Mr. York's first speech; I think it was pretty quiet then.
Q. Was there any response to his speech as he progressed?
A. Well, sir, there was a sort of murmur now and then that would run through the house, and an expression of surprise, &c.
Q. Any words spoken?
A. I am not positive about that.
Q. Did you hear any distinct expressions from any person?
A. My recollection is that I heard one gentlemen, sitting close to me, when he made the announcement that he had received $7,000, remark that that was a lie—a damned lie—and he knew it, or something to that effect.
Q. Who was that gentleman?
A. I am not positive now as to the gentleman. In the excitement I happened to hear it said there; I think I heard it; I am positive I heard that remark made.
Q. But you do not remember who made it?

A. I do not know that I do now. I think if I saw his face that I would.

Q. You are pretty positive that you heard the remark made?

A. Yes, sir; I am pretty positive.

Q. Was Mr. Pomeroy in his room at the Tefft House when you went down from the joint convention?

A. Yes, sir.

Q. Did you see and talk with him there?

A. I went, and saw, and talked with him there.

Q. He was there?

A. Yes, sir.

Q. Do you recollect what any other members of that joint convention said in their addresses?

A. I recollect that Senator Price took a very prominent part in it, and asked for an adjournment or a recess, so that the friends of Mr. Pomeroy could consult, or so that he could have a chance to defend himself against these charges, and he used some very severe language, as I thought, toward Mr. York.

Q. Who addressed the joint convention immediately after Mr. York?

A. I think it was Senator Price.

Q. And you think that Mr. Price asked for an adjournment of the convention?

A. He asked for a recess; I am pretty confident that he did. But at that time there was a great deal of confusion going on in the hall, as you yourself know.

Q. I am asking you what you know, not what I know.

A. I think I know that there was considerable confusion.

Q. You stated that Senator Price next addressed the convention after Mr. York.

A. That is my recollection.

Q. Do you know whether or not there had been an attempt to call the roll, previous to the address of Mr. York?

A. I will not be positive as to that; there was considerable confusion going on.

Q. Had any nominations been made previous to the statement of Mr. York?

A. John J. Ingalls was nominated by some gentleman; I did not ascertain who.

Q. Had Mr. Pomeroy been nominated previous to that time?

A. I think not.

Q. Is that your recollection—that he had not been?

A. That is my recollection.

Q. Do you know who nominated Mr. Ingalls?

A. I do not.

Q. Do you know whether or not any member of the house or senate addressed the joint convention in relation to a proposition made to them shortly after Mr. York addressed the convention?

A. I think that the first gentleman, that I recollect, after Mr. York addressed the convention, was Judge Price.

Q. Of Doniphan County?

A. Yes, sir; that is my recollection.

Q. You think he asked for an adjournment of that convention?

A. I think he asked for a recess. I know the question was discussed.

Q. Well, do you recollect any other expressions in the speech of Colonel York, except as you have now stated?

A. Well, probably I might, to go on, but I don't think they are material. He stated about his being a poor man, &c., and his conversation with Mr. Pomeroy; he went on and reiterated that.

Q. What did he say when he first got upon the floor?

A. He said he had a statement to make, and he asked for the indulgence of the house until he could make it—a personal question.

Q. Did he rise to a question of privilege?

A. I am not positive whether he used that language or not.

Q. Did he state he came there to vote for Mr. Pomeroy?

A. I do not remember that, but I think he said this: that he had promised Mr. Pomeroy to vote for him, when this money transaction should have taken place between him and Mr. Pomeroy, and that he now would fulfill that promise by voting that Mr. Pomeroy should have twenty years in the penitentiary.

Q. When was it that he made this statement in reference to members of the house?

A. My recollection is that it was during his first speech.

Q. At what point in his speech?

A. It followed right along very closely.

Q. Was it before or after he put the money on the secretary's desk?

A. I think it was made after he had first stated his own transaction with Mr. Pomeroy.

Q. Did he make any inquiry of the members of the joint convention, as to whether or not, under the circumstances, he should vote for Mr. Pomeroy?

A. I am really not positive whether he did or not, but I remember his saying, as I remarked before, I think, that when he had accepted this money he had told Mr. Pomeroy that he would vote for him.

Q. You have stated that. I am asking you now whether or not he appealed to the members of the joint convention to know whether or not, under the circumstances detailed by him, he ought to vote for Mr. Pomeroy, and they answered "No! no! no!"

A. I cannot state on that point.

Q. Have you any recollection of anything of the kind?

A. I have not a sufficient recollection to say whether he did or not.

Q. You state that you had a conversation with me?

A. Yes.

Q. You state that I solicited an interview with you?

A. Yes, sir.

Q. Where was that?

A. In the office of the Tefft House.

Q. When was it?

A. On Friday evening.

Q. At what time?

A. I can't say; along after dinner, some time.

Q. Was anybody else present?

A. Yes, sir; Colonel Horn.

Q. The witness that has been on the stand here?

A. Yes, sir.

Q. What did I say?

A. That you wanted to see me and have an interview with me. I told you all right; I was going over the river and would see you when I got back.

Q. You did not go immediately to have the interview with me?

A. No, sir.

Q. When did you have the interview with me?

A. That evening.
Q. At what time?
A. Along after dark.
Q. Where was it?
A. In your room.
Q. What room?
A. I don't remember the number you took me in.
Q. What was said?
A. I have recited the conversation.
Q. Recite it again?
A. I may not give it verbatium, as I stated in the beginning; but I can give you, possibly, the substance.
Q. Give it. You say that I took you into a room at the Tefft House?
A. Yes, sir; the room you were occupying.
Q. Who commenced the conversation?
A. You did.
Q. What did I say?
A. You said you had "beat the old man," or words to that effect.
The CHAIRMAN. Go on.
A. I remarked to you that I was sorry for it and stated the relations you and I had had in it; that I was there in good faith and I was sorry that it occurred. You said it was the only way to beat him, and then remarked to me as to the prospects for the other fight, and that it would make no difference between us. You went on in this style, and I told you that I had been there in good faith and that I was sorry for the transaction, and so on; and that if Mr. Pomeroy had deceived me in that kind of style, that I would not go into another senatorial fight unless I got down to the bottom. That was about the style and substance of the language, and I think I remarked (which probably I did not state before) that I thought you had worked in bad faith with me. You said, no, you did not intend it. I think I remarked that, Mr. Simpson, which I have not stated before. Then you went on to explain that it was the only way that you could beat him, or, as you said, the only way "we" could beat him—that was the term—and you felt satisfied he was using money and that you could not get it on him, and that you had taken into consultation Colonel Eldridge.

By Mr. SIMPSON:

Q. What Colonel Eldridge was referred to?
The CHAIRMAN. Ask him that afterward; let him continue his statement of this conversation.
The WITNESS:—— that you had taken Colonel Eldridge and Mr. Johnson and Mr. Horton—no, you had sent for Horton afterwards, and he came and suggested, or you consulted with him and he told you to do it; and you remarked then that he had the best political brain that you had ever met with, or that was in Kansas, or words to that effect; and that after that a consultation was had; that Colonel Johnson thought you must get some man that could approach Senator Pomeroy, and Colonel Johnson remarked that he had the man, Colonel York, that would do it; that it was necessary that some person should go and inform Senator Pomeroy that Mr. York could be got, and that he wanted money, and in case that failed you would then send some man, who that man was you did not tell me, or if you did I have forgotten——

By Mr. THURMAN:

Q. In case what course failed?
A. In case Mr. Pomeroy failed to bite at this thing; then Colonel

Eldridge would come to the rescue in some way; that was the name used, Colonel Eldridge.

By Mr. SIMPSON:

Q. Was Eldridge a member of the house?

A. No, sir; I did not so understand it.

Q. You did not understand that the Eldridge I was talking about was the Eldridge of the house of representatives?

A. No, sir, I did not.

Q. What Eldridge was it?

A. My understanding was it was the Colonel Eldridge that used to keep a hotel in Kansas City and the Eldridge House in Lawrence. That was the gentleman.

Q. Did not Major Eldridge, of the house of representatives, use to keep the Broadway Hotel in Kansas City?

A. I do not know anything about that now. He may have done it.

Q. Are you stating this about Colonel Eldridge from what I told you?

A. You simply made use of the term "Colonel Eldridge."

Q. Were there any explanations as to what Colonel Eldridge it was?

A. Yes, sir; Colonel Eldridge; that I understood was the difference between him and the other Colonel Eldridge.

Q. Proceed, now, with the conversation if there was any more of it.

A. I believe that was about all I can just recollect now.

Q. That was the Friday evening after the election?

A. Yes, sir; that is my understanding; Friday evening after the election.

Q. When did you leave Topeka?

A. I left Topeka, I think it was, on Tuesday.

Q. Tuesday following?

A. I think so; that is my recollection now.

Q. Was I there when you left?

A. I did not see you on the morning that I left that I recollect now.

Q. Do you know whether or not I went home after the senatorial election?

A. I do not remember that.

Q. You were there over Sunday, were you?

A. Yes, I was there over Sunday.

Q. Staying at the Tefft House?

A. Yes, sir.

Q. Were you there on Saturday staying at the Tefft House?

A. Yes, sir.

Q. And on Friday?

A. Yes, sir.

Q. Did you see me Saturday or Sunday?

A. There is one thing I can probably call to mind better. I may possibly be mistaken as to the date now, but since I come to think about it, it was upon the evening that Senator Pomeroy left for Washington that I had the interview with you, because I was going then immediately over to Mr. Pomeroy's.

Mr. HORTON. That was Friday.

By Mr. SIMPSON:

Q. Do you know what evening that was?

A. That, I guess, was Friday; if that was when Mr. Pomeroy left, that was the evening.

By Mr. THURMAN:

Q. The next Friday after the election?

A. Yes, sir.

By Mr. SIMPSON:

Q. The Friday after the election on Wednesday?

A. Yes, sir.

Q. You are positive and distinct in your recollection as to this conversation with me?

A. I am very positive as to having a conversation with you.

Q. And as to my statements?

A. Of course, as I said at first, I do not pretend to say that I have stated it precisely *verbatim*; but I have given the substance as near as I can recollect it.

Q. You recollect especially about Colonel Eldridge?

A. Yes, sir.

Q. But did I mention Senator Johnson?

A. Yes, sir.

Q. And Mr. Horton?

A. Yes, sir.

Q. Did I state to you that if this thing failed with Colonel York, that Colonel Eldridge was to be called in, and what he was to do?

A. No, sir; you did not state that, as I recollect.

Q. Do I understand you to assert that I said that Colonel Eldridge was present at any consultation that we had in reference to this matter?

Q. That was my understanding; that you had consulted Colonel Eldridge.

Q. In consultation with Colonel Eldridge and Mr. Johnson, we called in Horton?

A. Yes, sir; you had sent for Horton and consulted him.

Q. Whom I stated had the best political brain in Kansas?

A. Yes, sir.

Q. And that Johnson had said he had the man to do this thing, and that man was York?

A. Yes, sir.

Q. That I made all these statements to you?

A. Yes, sir; that is the way I understood it.

By Mr. HORTON:

Q. After the first senatorial election was there a great deal of talk about another election in Mr. Caldwell's place generally there in the city?

A. Yes, sir; that was the general talk there at that time.

By Mr. THURMAN:

Q. Did Colonel Simpson, in this conversation of which you speak, state to you that the charge made by Colonel York was a false charge?

A. No, sir; I did not so understand Colonel Simpson.

Q. Did you understand it was a true statement of what had occurred?

A. Yes, sir; I would infer that it was.

Q. That he believed Mr. York's statement?

A. Yes, sir.

Q. The meaning, then, of his statement to you was that, believing Mr. Pomeroy was buying votes, the plan was to get him to purchase some man's vote who would then reveal the fact?

A. Yes, sir; who would expose it.

Q. You did not understand him to say that this was a thing concocted out of whole cloth—a falsehood?

A. No, sir; I cannot say that I understood him to say that.

Q. But you understood him to believe in Mr. York's statement?

A. Yes, yes.

Q. What reason had Colonel Simpson for making this statement to you?

A. Well, sir, I had been trying to see, previous to this, if Mr. Simpson and Mr. Pomeroy could not get together as friends and work in harmony.

Q. Was that before or after the senatorial election?

A. Before. I had so stated to Colonel Simpson.

Q. What reason had Colonel Simpson for soliciting an interview with you and making this statement?

A. For the reason, as I understood him, that I would work for him with the southwestern members in case this second senatorial election came on.

Q. He was then endeavoring to enlist you on his side in case there should be an election to fill a vacancy?

A. Yes, sir.

Q. Were you a member?

A. No, sir.

Q. Where do you live?

A. At Council Grove, Morris County.

Q. How far from where Mr. Simpson lives?

A. I presume it is one hundred and twenty-five to one hundred and thirty miles on an air-line.

Q. Had you been a member of the legislature?

A. No, sir.

Q. Had you held any public State office?

A. No, sir.

Q. Were you a man of influence?

A. I do not know, sir; I never claimed any. I claim to be a friend of Mr. Simpson.

Q. Had you been an active politician?

A. Yes, sir; in a small way.

Q. An influential one?

A. I cannot say.

Q. To come back to the time in the legislature; I would like for you to state, as nearly as possible, in the very words of Colonel York, what he said in opposing the recess that was moved, when he said they would go down to that den of iniquity, the Tefft House; what did he say; give his own words?

A. You must understand, judge, that there was an exciting time there.

Q. I understand that; but state, as nearly as you can recollect, his words?

A. I would not wish to place Senator York, or any other gentleman, in an improper position, nor myself; but I understood Senator York to say, in substance at least, this: that he opposed an adjournment, on the ground that Mr. Pomeroy's friends—I do not know, but I presume that he alluded to those in the legislature as well as those in the lobby, because they had tried to clear the lobby before—upon the ground that if they got down to the Tefft House, to that den of iniquity—and I will not be sure whether he used the term "that arch traitor," or "fiend," or "bad man," or something of the kind—but if they got down there, and had a recess, that they would get up some other scheme or plan that would defeat the purpose for which this was intended, or words to that effect.

Q. For which what was intended?

A. I understood certainly their *dénouement*, whatever that was, the *dénouement* they had made before.

Q. For which this revelation was made?

A. Yes, sir; that is my understanding.

Q. Did he say or intimate that this revelation was a falsehood?

A. No, sir. O, no; I did not understand that.

Q. But if Mr. Pomeroy's friends got down to that den of iniquity, the Tefft House, they would contrive some plan to defeat the effect of that revelation?

A. Yes, sir.

Q. That was your idea?

A. Yes, sir.

By Mr. BUCKINGHAM:

Q. After Colonel York had delivered his address in the joint convention, did any member of the joint convention intimate that he had been offered money for his vote by Mr. Pomeroy?

A. I do not remember, sir; and I would state the reason why, really, that after Mr. York made his announcement and several gentlemen had spoken—I could not give the order—I think it was a perfect confusion and uproar; they were hissing any of the members who got up and attempted to speak in behalf of the recess or adjournment.

Q. Would you not have been likely to have heard any such statement if it had been made?

A. If it had been made in a loud enough tone, and emphatic enough, possibly I might have heard it; I think I could.

Q. By whom was that hissing?

A. I cannot say that.

Q. You cannot say whether by the friends or opponents of Mr. Pomeroy?

A. I am satisfied that no true friend of Mr. Pomeroy would want to hiss and thereby add odium to themselves.

Q. You think the opponents of Mr. Pomeroy wanted to hiss down any proposition of that kind?

A. I think so.

Q. Do you think they would have wanted to hiss down a statement by a member that he had been offered money, or that he had received offers of money from Mr. Pomeroy?

A. I do not think that they would.

Q. Would you or not, then, have been likely to have heard such a statement if made?

A. As I stated before, if loud enough to be heard above the confusion, I should.

Q. Was any member of that convention named as a party who had received money, or who had been offered money, except Mr. York?

A. The name given distinctly?

Q. Yes.

A. None that I recollect of hearing.

By Mr. THURMAN:

Q. What is your occupation?

A. I am in real-estate business; I used to be a wood-butcher when I lived East.

Q. A what?

A. A ship-carpenter.

By Mr. HORTON:

Q. Where did you live before you went West?

A. In Wilmington, Delaware, where my people are, and in New Castle, Delaware, and in Queen Anne's County. Mr. Vickers there, I presume, knows where I used to live.

By Mr. SIMPSON:

Q. About this lobby; state whether or not the lobby, or a large majority of them, was opposed to or was composed of friends of Mr. Pomeroy.

A. He had a great crowd there; I could not attempt to say as to the majority, whether for or against Mr. Pomeroy.

Q. If you were there during that entire senatorial contest, can you not say whether or not the lobby that hung around the Tefft House was or was not in favor of Mr. Pomeroy?

A. I think it was.

Q. Do you know Senator Guerin, of Fort Scott?

A. I do not.

Q. Do you know whether he was a Pomeroy or anti-Pomeroy man?

A. I do not of my own knowledge.

Q. Do you recollect a resolution introduced by Mr. Guerin, soon after the joint convention met, to clear the lobby?

A. After the convention met?

Q. Yes.

A. I do. There was a motion. I do not know whether Senator Guerin made it.

Q. There was a motion made to clear the lobby?

A. Yes, sir; that was my understanding.

Q. Do you know whether it was adopted?

A. I think not. In fact, I am sure it was not, because no person left the lobby. It was voted down.

Q. What are you doing just now? Are you engaged in any appraisement of any real estate?

A. No, sir.

Q. Have you been lately?

A. Yes, sir.

Q. What position was it?

A. I was appointed a commissioner to appraise the Kaw lands in our county.

By Mr. HORTON:

Q. What is your politics?

A. That of a republican.

WASHINGTON, D. C., *Tuesday, February* 24, 1873.

THOMAS MURPHY sworn and examined.

By Mr. HORTON:

Question. State your name, age, and residence.

Answer. My name is Thomas Murphy; my residence is Atchison, Kansas; my age 41 years.

Q. What official position have you ever held under the Government?

A. I was superintendent of Indian affairs for four years.

Q. How long ago?

A. I took charge of the office on the 1st of July, 1865.

Q. And continued up to what time?

A. I retired from the office about the middle of June, 1868.

Q. Or 1869?

A. Soon after Mr. Grant came into office.

Q. Are you acquainted with two Mr. Eldridges in Kansas?

A. Yes, sir.

Q. Do you know the member in the house?

A. Yes, sir.

Q. What is his name?

A. I know him as Tom Eldridge.

Q. How was he in the senatorial matter, friendly or unfriendly to Mr. Pomeroy?

A. I understood Tom Eldridge to be a friend to Mr. Pomeroy.

Q. Do you know a gentleman named Colonel S. W. Eldridge, building a hotel in Atchison?

A. Yes, sir.

Q. How was he in this matter?

A. I have had several talks with Colonel Eldridge, in each of which he always expressed himself as bitterly opposed to Mr. Pomeroy.

Q. Was he not at Topeka opposing Mr. Pomeroy.

A. I understood that he was.

Q. Did he not formerly keep a hotel at Lawrence, where James Horton lived?

A. Yes, sir.

Q. Did you know James C. Horton?

A. Yes, sir.

Q. Did not Colonel S. W. Eldridge live at Lawrence, where Mr. Horton lived?

A. Yes, sir; he did.

Q. How long?

A. I knew of Colonel Eldridge living in Lawrence in 1857; I believe he calls that his home now.

Q. At any time in Topeka did you ever hear him speaking bitterly of Mr. Pomeroy?

A. I heard him express himself as very hopeful that they would succeed in beating Mr. Pomeroy.

Q. How long were you at Topeka?

A. I was in Topeka the biggest part of the two weeks from the time the legislature met until the senatorial election.

Q. With whom did you occupy a room?

A. Most of the time I occupied the room yourself and Colonel Martin and other citizens did.

Q. Were you where myself and Mr. Martin and Mr. Pomeroy frequently talked and consulted?

A. Yes, sir.

Q. During any of these consultations, state if Mr. Pomeroy said to you, or to me, or Mr. Martin, in your presence, anything about the use of money in that contest.

A. He did not. I had several conversations with Mr. Pomeroy during the senatorial campaign, and whenever I mentioned the use of money or asked him in reference to the use of money, he invariably told me he was not using any; and I recollect distinctly a conversation with him after the vote had been had in the separate houses, and in the course of that conversation I told him the opposition said he would have to buy seventeen votes, that he lacked that much of an election, and that was

the only way he could get it. He assured me that he knew better than the opposition what he was doing, and that he was going to be elected without the use of one dollar; and he said that he could better afford to be beaten without the use of money than to be elected with it.

Q. During the time you were at Topeka, do you know of any money being used directly or indirectly by Mr. Pomeroy, myself, or any of his friends, to secure his election with the members of the legislature?

A. I do not.

Q. Was any money given to you for that purpose?

A. Not one cent.

Q. Do you recollect the Saturday previous to the senatorial election, the time at which Mr. York says that Mr. Pomeroy's rooms were deserted, about the legislature and the lobby going home?

A. Yes, sir; a great many of us left that day.

Q. Did you leave?

A. I left that day, and several of the members of the legislature went on the train I did.

Q. When did you come back?

A. I returned on Monday.

WASHINGTON, D. C., *Monday, February* 24, 1873.

J. Z. SEXTON sworn and examined.

By Mr. HORTON:

Question. Give your name, age, and residence.

Answer. J. Z. Sexton; I am 31 years old; I live near Fredonia, Wilson County, Kansas.

Q. Are you a member of the legislature?

A. I am a member of the lower house.

Q. Are you a member from the senatorial district represented by Mr. York?

A. I am.

Q. Do you recollect how many votes Mr. York received for Senator in the joint convention?

A. I think he received two.

Q. Did you cast one of those votes?

A. I did.

Q. State if you heard Mr. York's speech in that convention.

A. I did.

Q. What did he say, if anything, in relation to members of the legislature having money of Mr. Pomeroy outside of his own matter?

A. He said during his speech that he knew of members in that house that had money of Mr. Pomeroy in their pockets; I think he used the term "burning in their pockets," but I am not positive as to that.

Q. Has he ever made any explanation of that matter before the legislature?

A. I believe not.

Q. Did you offer a resolution demanding that he should make an explanation?

A. I did, sir.

By Mr. SIMPSON:

Q. Did you offer that resolution after Mr. York had left Kansas to come to Washington?

A. Yes, sir; I think I did; but at the time I was not apprised of his leaving.

Q. Why did you vote for Mr. York for United States Senator on the roll-call of the joint convention?

A. Well, sir, if you will indulge me a little in an explanation of it——

Q. Certainly.

A. Of course, at the time of the announcement made, and the disclosure made by Colonel York, there was a wide field for speculation. I could not vote for Mr. Pomeroy, and I was suspicious, sir, that many of the opposing candidates had been influencing Colonel York in that matter, and that he was really as meritorious, if not more so, than any of the opponents.

Mr. THURMAN. I do not perceive the bearing of this statement as to his motives.

Mr. SIMPSON. He says he offered a resolution after Mr. York left; I want to show his estimate of Mr. York at that time.

Mr. THURMAN. I do not see that it has anything to do with the question we are investigating.

By Mr. SIMPSON:

Q. Did you or not make a short speech in the joint convention indorsing the character of Colonel York?

A. I did, sir; I indorsed his character so far as I was acquainted with him.

Q. Did Colonel York state, in his speech in the joint convention. where he got this information about members having money in their pockets that belonged to Mr. Pomeroy?

A. I got the impression, from his statement, that he had got that information from Mr. Pomeroy. I remarked to the same effect to Colonel York a day or two afterward.

By the CHAIRMAN:

Q. What did he say, if anything?

A. He took no exceptions to it at the time.

By Mr. SIMPSON:

Q. Did he state in that speech the number of gentlemen on the floor who had the money of Mr. Pomeroy in their pockets? Do you recollect any member or any name being used by him?

A. I am not certain. There was a plurality. I think the term "several" or "five or six" was used. I got the impression that there were five or six.

Q. Whether you got that impression from Mr. York's statement or subsequent conversation you do not know?

A. I got the impression from Colonel York's statement.

Q. Did he say anything about the names?

A. Not at that time. He simply stated that there were five or six.

Q. Did he state at that time that he could mention names, and would at the proper time?

A. Yes, sir.

Q. Then there was something said about names?

A. That he would mention the names of members, I think.

Q. Did Mr. York state anything about spies that Mr. Pomeroy had in the anti-Pomeroy caucus?

Mr. THURMAN. Are you speaking of the speech in the legislature?

Mr. SIMPSON. Yes, sir.

The WITNESS. I am not positive about that, sir.

By Mr. SIMPSON:

Q. You have no recollection about it one way or the other?

A. No, sir.

Q. Did he use this language: "I am not going to relate at this time who he said acted as spies in our anti-Pomeroy caucus, and while pretending to be in harmony with us, would reveal every thought to Mr. Pomeroy?" In the course of the speech that Mr. York made at that joint convention did he use that language that I have just read to you?

A. Read it again.

Q. "I am not going to relate at this time who he said acted as spies in our anti-Pomeroy caucus, and while pretending to be in harmony with us, would reveal every thought to Mr. Pomeroy."

A. I cannot state that he did make that statement.

Q. Did he make a statement in substance to that effect?

A. I do not remember that he did.

Q. You do not remember that he made any such statement?

A. No, sir.

Q. You do not remember that he made a statement similar to this, or in substance the same as this?

A. No, sir.

Q. Do you recollect whether he made any statement as to what Mr. Pomeroy said to him as to having spies in the anti-Pomeroy caucus?

A. I believe I have an indistinct recollection of his saying something in relation to spies when he spoke of Mr. Pomeroy.

Q. Now, was it in connection with what Mr. Pomeroy said about spies, or what Mr. York said that Mr. Pomeroy had said about spies that he used the words, "I know the names, and will mention them at the proper time?"

A. I did not so understand it.

Q. Can you now repeat to this committee any other expression in that speech of Mr. York that he made? Can you state to this committee how Colonel York commenced that address?

A. Well, after he addressed the president it is my recollection that he stated that he rose to a question of privilege, and went on with his speech.

Q, Your recollection is that Colonel York rose to a question of privilege?

A. Yes, sir.

Q. What then did he say?

A. He made the statement—he made the disclosure in reference to this.

Q. Can you recollect or state to the committee a single sentence uttered by Colonel York, in the language in which he did utter it, during that entire speech, except the one you have stated?

A. Indeed I could not state that *verbatim*, perhaps. I would not be qualified, perhaps.

Q. You give simply the substance?

A. Yes, sir; he spoke of having a wife and children looking to him for support, and parents.

Q. Anything else?

A. He spoke of his pledge to cast his vote for Mr. Pomeroy, and that he would fulfill that pledge by voting for him to serve a series of years in the penitentiary—perhaps twenty years, I am not positive.

Q. Did he ask the convention whether, under these circumstances, he should vote for Mr. Pomeroy?

A. I cannot say.

Q. Did he address any inquiry to the members of the joint convention to which they replied "No, no, no?"

A. I do not remember that he did.

Q. How long was that joint convention in session?

A. I should think between three and four hours.

Q. How long was it from the development made by Mr. York, or the deposit of that money on the desk of the secretary, until the roll was called and the vote taken for United States Senator?

A. Well, between one and two hours, I should think.

Q. Had the roll been called or commenced to be called before Mr. York made that statement?

A. I am inclined to think there were one or two names called.

Q. What names were called?

A. I am not sure; I am not familiar with the senate roll and paid no attention to the names at all.

Q. Had any nominations been made prior to the statement of Mr. York?

A. Yes, sir.

Q. What nominations had been made?

A. The name of John J. Ingalls was put in nomination by Mr. Guerin, I believe; I am not positive, but I think by Mr. Guerin.

Q. Were any other nominations made?

A. Not that I recollect of; no, sir.

Q. Did Captain Mapes, of Labette County, put in nomination Mr. Pomeroy?

A. In the joint convention?

Q. Yes.

A. If he did I have no recollection of it.

Q. Did not Captain Mapes, of Labette County, put Mr. Pomeroy in nomination or second his nomination on the day previous in the separate ballot in the house?

A. I think he did. I think he put his name in nomination. I have the impression that his name was put in nomination by two persons. I got that impression then, but I might not have understood correctly.

Q. When?

A. On the previous day.

Q. How far was it from where the session of the joint convention was held down to the Tefft House?

A. I should suppose it was near a hundred rods.

Q. How long would it take a person, walking at an ordinary rate, to go down there?

A. Five to ten minutes.

Q. Do you know anything about how densely crowded the convention was; whether it was easy for people to get access or get out?

A. It was very densely crowded.

By Mr. VICKERS:

Q. After the election when you told Colonel York that you had got the impression from his speech in the convention that he stated there were members of the convention who had Mr. Pomeroy's money in their pockets, and that he got the information from Mr. Pomeroy, did he deny it or say that he spoke under excitement?

A. I do not think that he made any reply. There were three or perhaps four parties in conversation at the time, and I remarked that I was disposed to put a liberal construction on his speech that day, and I supposed from the evidence of his speech that he had got his evidence from Mr. Pomeroy; that that was my understanding, and he made no reply.

By Mr. SIMPSON:

Q. Did not Mr. York, in that conversation, distinctly state that any information he possessed upon that subject he got from Mr. Pomeroy himself?

A. I think not; I do not remember it.

WASHINGTON, D. C., *Monday, February* 24, 1873.

W. R. LAUGHLIN sworn and examined.

By Mr. HORTON:

Question. State your full name, age, and residence.

Answer. My name is W. R. Laughlin; my age is forty-one; my residence, Cherokee County, Kansas.

Q. Are you acting in any position as agent for any parties in Kansas; I do not mean in any particular business matter—any representative capacity?

A. I am still, I believe, the delegate from the settlers on the Cherokee neutral lands, in Kansas.

Q. Where have you been stopping and attending to that business?

A. Principally in Washington, for some years.

Q. Are you here now upon that business?

A. On that business.

Q. About how many people does that include? You spoke of settlers; how large a class of people do you represent in that capacity?

A. Well, we sometimes say twenty-five or thirty thousand.

Q. It is a large portion of the southern part or some of the southern counties of Kansas?

A. Yes, sir.

Q. You received compensation or had your expenses paid here?

A. Well, I have had; yes, sir.

Q. State if after the senatorial election Mr. Pomeroy contributed anything to that matter?

A. He did.

Q. How much?

A. Fifty dollars.

Q. What was said about it—about his promise to Mr. Simpson on that subject after the senatorial election?

A. I am not certain whether at the little interview Mr. Pomeroy mentioned Mr. Simpson's name or not.

Q. State briefly what he said.

A. He said that he knew I was here working under straitened circumstances—I think those were the words he used at the time—and that he was willing to assist in the matter.

By Mr. THURMAN:

Q. When was this?

A. On the 11th day of the present month of February.

By Mr. HORTON:

Q. He then contributed the sum of $50?

A. Yes, sir.

Q. In that conversation did he state that he had promised your friends in Kansas to make some contribution toward your expenses?

A. I do not remember that he did. He mentioned the

was here working for that people and in rather straitened circumstances. I think those were the words he used.

Q. Was that here in Washington?

A. Yes, sir.

By the CHAIRMAN:

Q. Was that here at Washington?

A. Yes, sir.

By Mr. THURMAN:

Q. On the 11th day of this month?

A. Yes, sir.

Mr. THURMAN. Do you think that competent, Judge Horton?

Mr. HORTON. Perhaps not strictly so; but we connect it with other things. I regret to have to introduce testimony that does not appear at first sight competent.

The WITNESS. I would say to the committee that I would be gladly saved from answering these questions, for it is exceedingly disagreeable to be brought before the public in this style.

By Mr. HORTON:

Q. Prior to the senatorial contest had you written to Mr. Simpson in relation to matters here?

A. Yes, sir; Mr. Simpson is treasurer of our advance committee. I had written to him informing him of my need of funds here in Washington.

Q. Was it a large amount you needed?

A. No, sir.

Q. What did you tell him you needed?

A. I do not think I told him any sum. I only wanted it to bear my expenses. I never used money for anything else.

Q. What amount was to be sent to you—small or large—that you expected from Mr. Simpson?

A. Well, I expected two or three hundred dollars.

WASHINGTON, D. C., *Monday, February* 24, 1873.

DAVID W. HOUSTON recalled.

By Mr. HORTON:

Question. Colonel Houston, were you present in the joint convention?

Answer. I was.

Q. How long a time did you remain there?

A. I remained until the election of Senator.

Q. State what, if anything, was said by Mr. York as to members having money in their pockets?

A. He used the language that has been repeated here by other witnesses. As near as I can give it he said, there were "several others"—he used some term that conveyed the idea of several, five or six—"several other members on this floor, who had Mr. Pomeroy's money burning in their pockets," and that he would divulge the names at the proper time.

Q. Do you recollect who made the motion for a recess?

A. There were several motions made. My recollection is, that C. C. Hutchinson made one for adjournment, and Mr. Reasoner the one for a

recess, and they were seconded and discussed by Mr. Daniel Adams and C. C. Hutchinson, and other members.

Q. In opposition to the motion for a recess, what did Mr. York say?

A. He opposed it very strongly. He made a speech in opposition to it; and his reasons were, that if the friends of Mr. Pomeroy could get together again and organize, they would defeat the exposition that had been made there.

By Mr. THURMAN:

Q. Were other nominations made in the joint convention?

A. Yes, sir. When the joint convention met, and was called to order by the president, and the journal of the senate was read, and then the journal of the house read by the chief clerk of the house, and it showed, as the president announced, that no one had received a majority of all the votes cast, there were motions made to clear the lobby. That was about the next thing I recollect. Mr. Guerin made the motion to clear the lobby. It was defeated. Then he insisted on his right, under some rule, that any member had the right to have the lobby cleared when he demanded it. It was argued at some length, and Mr. Reasoner moved to suspend that rule, and it was suspended, and the lobby remained; and then there was a resolution passed about that time to proceed to the election of United States Senator. Then nominations were in order, and my recollection is very distinct, that Mr. Guerin nominated Mr. Ingalls, and my impression is that Senator Price, of Donaphan County, nominated Mr. Pomeroy.

Q. Was Senator Pomeroy's name at any time withdrawn?

A. It was not.

Q. At no time before the election?

A. It was not. When Mr. York went to make his speech, I remember very distinctly I was standing beside the Hon. John M. Price, of Atchison.

Q. I am not inquiring about that. I only want to know whether, after he was put in nomination at any time, and before the election actually took place, Mr. Pomeroy's name was withdrawn?

A. It was not.

By Mr. HORTON:

Q. It was put in nomination?

A. I am clear it was. When Mr. Price got up to make his speech, he asked me if Mr. York was going to second the nomination of Mr. Pomeroy. That makes me positive. I was somewhat surprised. I said, "I do not know." He went on opening his speech in this way: "Before I place in nomination the person I am about to nominate, I want to make some remarks," or something to that effect. I was surprised, and Mr. Price was surprised, and we all wondered if he was going to second Mr. Pomeroy's nomination.

By the CHAIRMAN:

Q. Did Mr. York nominate anybody?

A. No, sir.

By Mr. HORTON:

Q. Was there much excitement?

A. Yes, sir; after he got done.

By Mr. SIMPSON:

Q. Was there any confusion during the delivery of Mr. York's speech?

A. No, sir; not during its delivery. Every person was attentive; every person was shocked and stunned, and listened.

Q. Did Mr. York say anything about a question of privilege when he got on the floor?

A. He must have said so.

Q. I am asking for your recollection.

A. I do not remember his mentioning that. I recollect, distinctly, his making the remark I mentioned.

Q. Was this his language: "Mr. President, and gentlemen of the joint convention: before I place any gentleman in nomination I desire to make a brief statement?"

A. I think that was his language in the commencement of that speech. I have read the speech as printed, but my recollection of it, as delivered, is not exactly as it is printed; but that opening is the same.

Q. Did he make any appeal to the convention, or ask the convention whether or not, under the circumstances, he should vote for Mr. Pomeroy?

A. I do not remember it.

Q. You do not remember anything of the kind?

A. No, sir.

Q. And that members of the convention, or outsiders, called out, "No, no, no?"

A. I do not remember anything of the kind.

Q. Do you recollect whether there was any attempt to call the roll prior to that speech of Colonel York?

A. My recollection is that it was not; that the roll had not been attempted to be called; but they were about ready. The nominations had been made, and they were, I think, about to call the roll, and Mr. York rose, and I supposed he was going to second the nomination of Mr. Pomeroy.

Q. Now, Colonel Houston, (I believe all western men are colonels,) are you certain that Mr. Price put Mr. Pomeroy in nomination?

A. No, sir.

Q. Are you positive that any person put Mr. Pomeroy in nomination?

A. I cannot say that I am positive; but I am very certain they did.

Q. You have that recollection?

A. Yes, sir.

Q. State who you recollect now nominated Mr. Pomeroy.

A. My impression is that Mr. Price did; but it is only an impression.

Q. Still, your recollection is positive that he was placed in nomination, and your impression is that it was by Mr. Price?

A. Yes, sir. I cannot say positively that he was placed in nomination, but I think he was; because we spoke of Mr. York seconding his nomination. That was our impression.

Q. Do you pretend to give the exact words of Colonel York?

A. No, sir.

Q. You give the substance of what he said?

A. Yes, sir.

Q. Do you know any reasons that he gave in his second address to the joint convention, as to why they should not adjourn or have a recess?

A. The reason was to prevent an organization of Mr. Pomeroy's friends in order to prevent the effect of his exposition.

Q. Was that the language?

A. No, sir; the substance.

Q. How long was that joint convention in session?

A. May be two hours, may be not so long. My impression is that it was about two hours.
Q. Where did you go from that joint convention?
A. To the Tefft House.
Q. To Mr. Pomeroy's room?
A. Yes, sir.
Q. Did you see Mr. Pomeroy there?
A. I did.
Q. How far was it, from the place where the joint convention was held, to the Tefft House?
A. About three and a half blocks.
Q. An ordinary walk of five or ten minutes?
A. Yes, sir.

WASHINGTON, D. C., *Monday, February* 24, 1873.

SIDNEY CLARKE sworn and examined.

By Mr. HORTON:

Question. Do you know a gentleman in Kansas whom they call S. W. Eldridge?
Answer. Yes, sir; Shaler W. Eldridge.
Q. Is he a friend of James C. Horton?
A. I so understand it.
Q. How long have you lived in the same town?
A. I think Colonel Eldridge has resided in Lawrence, where I reside, since 1856. He was the owner of the Eldridge House at the time of its destruction in 1856.
Q. Is James C. Horton connected with the Kansas Pacific Railroad?
A. Yes, sir.
Q. State, if you know, what position this Mr. Eldridge occupied in the senatorial contest?
A. He was a very bitter opponent of Mr. Pomeroy.
Q. Do you know another Eldridge?
A. Yes, sir.
Q. What is his name?
A. Thomas B. Eldridge.
Q. He was a brother of the other one mentioned?
A. Yes, sir.
Q. Was he considered friendly to Mr. Pomeroy?
A. Yes, sir.

By Mr. SIMPSON:

Q. Where were you during the senatorial contest?
A. At the city of Washington.
Q. During that time did you converse with Messrs. Eldridge?
A. No, sir.
Q. All you know about this matter is simply what you have heard?
A. You refer to the election?
Q. Yes, sir.
A. Yes, sir; that is all.
Q. I refer to the opposition of the Eldridges?
A. No, sir; I had a conversation with Colonel Eldridge in the fall or commencement of the winter.
Q. How long have you lived in Lawrence?
A. Since 1858.

Q. Are you and Colonel Eldridge friends?

A. Of late years we have been what may be called political friends. Formerly, during General Lane's lifetime, we were not.

Q. Are you and Mr. Horton political friends?

A. Well, sir, we get along very peaceably.

Q. No bloodshed?

A. None that I know of, sir.

Mr. HORTON. That exhausts our testimony except in regard to the York disclosures. It is quite important that we should open with one important witness who is not here. Our evidence will be brief. We expect him here to-morrow.

Mr. SIMPSON. The only witnesses we desire to examine in chief are Mr. Rohrabacher, and the evidence in regard to that money, which has not arrived.

The CHAIRMAN. The committee are unanimously of opinion that this testimony should be closed to-morrow, in order that there may be time to have it printed and examined before it is submitted to the Senate, and that the Senate may have time to consider it. Next Monday, it will be remembered, is the last day of the session.

The committee will be glad, if the counsel think proper, to prevent argument, to receive from them any written or printed argument not later than Thursday.

At 5 o'clock and 20 minutes p. m. the committee adjourned until to-morrow at 10 o'clock.

WASHINGTON, *Tuesday, February* 25, 1873.

JOHN J. MURPHY sworn and examined.

By Mr. SIMPSON:

Question. State where you reside?

Answer. Leavenworth City, Kansas.

Q. How long have you lived there?

A. Nineteen years.

Q. Were you at Topeka during the recent senatorial election?

A. I was.

Q. How long were you there?

A. Two weeks.

Q. State whether or not you had any conversation with Mr. Pomeroy in reference to Mr. Bond, of Leavenworth County?

A. I had.

Q. In relation to Mr. Bond voting for Mr. Pomeroy?

A. Yes, sir.

Q. State what that conversation was.

A. Mr. Pomeroy told me to meet him at his room at 12 o'clock at night.

The CHAIRMAN. What is the purpose of showing a conversation between him and Mr. Bond?

Mr. SIMPSON. Mr. Bond testified to a statement made to him by Mr. Murphy, which statement purported to come from Mr. Pomeroy.

The CHAIRMAN. Go on.

By Mr. SIMPSON:

Q. Do you live in Mr. Bond's representative district?

A. I do.

Q. Were you friendly to his election?

A. I was.

Q. State what conversation you had with Mr. Pomeroy in reference to Mr. Bond.

A. That is all the substance of it; that he told me to come at 12 o'clock with Mr. Bond; that night Mr. Bond was sick and did not go.

Q. Did you have any other conversation with Mr. Pomeroy?

A. I saw him again.

Q. When was that?

A. Next day.

Q. Was anything said in reference to Bond?

A. I told him Mr. Bond could not come that night; he was sick.

Q. Anything else said?

A. He told me he wished me to use my influence with Mr. Bond; that was about all.

Q. Was there anything else?

A. No, sir; not that I know.

Q. Did you make any statement to Mr. Bond?

A. I did.

Q. What did you state to Bond?

A. I told Mr. Bond I would like him to vote for Mr. Pomery; that it was better for us to get a man from Atchison than from Southern Kansas; it would be of more benefit to the city of Leavenworth.

Q. Did you make any statement in reference to what Mr. Bond could get if he voted for Mr. Pomeroy?

A. I told Mr. Bond that I should think he could get an office or some money, provided he would support Mr. Pomeroy and not fight him, the same as he has done.

Q. You told Mr. Bond that?

A. Yes, sir.

Q. Why did you tell Mr. Bond that?

A. I was thinking he could get an office or some money.

Q. Did you have any conversation of that kind with Mr. Pomeroy?

A. No, sir; I had not.

Q. Did Mr. Pomeroy say anything of that kind to you?

A. Mr. Pomeroy told me to use my influence with him, and he would do the best he could for Mr. Bond.

Q. Did he say how he would do the best he could for Mr. Bond?

A. He did not.

Q. How many conversations did you have with Mr. Pomeroy?

A. Three.

Q. When was the other conversation?

A. It was after we had a caucus of the delegation of the city of Leavenworth, and Dr. Morris, of Leavenworth, asked me to speak in regard to it, and I gave my opinion that I would sooner vote for Mr. Pomeroy than any Southern Kansas man.

Q. I am not talking about what transpired in the caucus, but what transpired in the interview between you and Mr. Pomeroy.

A. I told Mr. Pomeroy that the delegation of Leavenworth, I thought, was in his favor at present. That was all that I spoke to Mr. Pomeroy in regard to it.

Q. In any conversation you had with Mr. Pomeroy in reference Bond, was anything said about Bond getting any money?

A. No, sir; Mr. Pomeroy did not tell me any such thing. I told Mr. Bond so.

Q. You did tell Mr. Bond so?

A. I did.

Q. But Mr. Pomeroy did not tell you any such thing?
A. No, sir.
Q. What made you tell Mr. Bond that?
A. By the conversation that I had with Mr. Pomeroy, that he was in favor of Mr. Bond, I thought (that was my own opinion) he would get some money or some office.
Q. That was just your own opinion?
A. My own opinion.
Q. Had you got that opinion from anything Mr. Pomeroy said to you?
A. I did.
Q. What was it that Mr. Pomeroy said to you that induced you to entertain that opinion?
A. Mr. Pomeroy told me to use my influence with Mr. Bond, and that he would do all that he possibly could for Mr. Bond provided he got elected. That was all.
Q. Then you did tell Mr. Bond that if he would vote for Mr. Pomeroy he could get an office or could get some money?
A. I told him that was my own opinion.
Q. What were you doing at Topeka?
A. I went up there to see the governor.
Q. How long did you stay there?
A. I staid there the first time a week; seven days. I went home on Saturday night and came back on Tuesday following, and stopped one week more.
Q. Were you personally in favor of the re-election of Mr. Pomeroy?
A. I was.
Q. While there, were you working in his interest?
A. I was.

By Mr. HORTON:

Q. Did Mr. Pomeroy ever mention to you or give you any authority to use money with Mr. Bond, or with anybody else?
A. No, sir; he did not.
Q. Did he ever make a statement to you, to tell Mr. Bond that he could have money?
A. No, sir; he did not. He told me to use my influence with Mr. Bond; that he would do all he possibly could for him.
Q. Where were you stopping at Topeka?
A. At the Tefft House.
Q. There were a number of Leavenworth men there.
A. Yes, sir.
Q. While you were at the Tefft House, did you have a conversation with Mr. B. F. Simpson?
A. I had.
Q. What was that?
A. I was speaking to Mr. Simpson the first day I saw him there. I shook hands with him. He was with me in the room. Mr. Simpson asked me what I was doing here. I told him I had come up here to help Mr. Pomeroy along. I asked him what his opinion about it was. He said that they would beat the old son of a bitch this time. That was all the conversation between me and Mr. Simpson.
Q. I understand you to say that you had no authority from Mr. Pomeroy or his friends to offer any money?
A. Not at all. I have stated all.

TUESDAY, *February* 25, 1873.

CHRISTIAN A. ROHRABACHER sworn and examined.

By Mr. SIMPSON:

Question. State where you live.

Answer. I reside in Sumner County, Kansas.

Q. How long have you lived there?

A. My residence in Sumner County has been a little less than a year; in Kansas, however, it has been something over a year.

Q. Were you in Topeka during the recent senatorial election?

A. I was.

Q. When did you go there?

A. I went there a short time previous to the convening of the legislature. I think the week previous.

Q. Did you occupy a seat in the legislature?

A. I did for eleven days.

Q. Did you have a contested election case?

A. My seat was contested by my opponent in the election. The committee on elections brought in a report in favor of the contestor on the ground that some illegal votes had been polled, he having taken evidence, I having taken none, and relying on the informality of the notice served upon me my counsel advised me to take no evidence, and consequently the evidence being *ex parte*, the committee reported in his favor, and he took my seat.

Q. Where did you stop at in Topeka during that contest?

A. I stopped at the Tefft House part of the time, and at the Fifth Avenue House part of the time.

Q. Did you advocate the election of any particular person for United States Senator?

A. I did.

Q. What person?

A. Hon. S. C. Pomeroy.

Q. Did you have any conversation with Mr. Pomeroy during the contest?

A. I did.

Q. How frequent?

A. It would be impossible for me to state how frequent; it was quite frequently.

Q. Once a day?

A. I presume I saw him and spoke with him once a day. No; there was a part of the time that I did not see him every day. There were a few days while I was at the Fifth Avenue that I did not see him every day. At other times I saw him every day, though I cannot say that I had a conference with him so frequently.

Q. Did you have any conversation with him in relation to members of the legislature, and how they would vote?

A. Yes, sir.

Q. Were you authorized by him to secure, or try to secure, the votes of any members of the legislature for him?

A. It was understood that I was at work for him, and members were talked to.

Q. State what conversation you had with Mr. Pomeroy in relation to it.

A. I will say with regard to it that it would be impossible for me to relate here the conversations altogether that I had with Mr. Pomeroy.

Q. Then you did tell Mr. Bond that if he would vote for Mr. Pomeroy he could get an office or could get some money?

A. I told him that was my own opinion.

Q. What were you doing at Topeka?

A. I went up there to see the governor.

Q. How long did you stay there?

A. I staid there the first time a week; seven days. I went home on Saturday night and came back on Tuesday following, and stopped one week more.

Q. Were you personally in favor of the re-election of Mr. Pomeroy.

A. I was.

Q. While there, were you working in his interest?

A. I was.

By Mr. HORTON:

Q. Did Mr. Pomeroy ever mention to you or give you any authority to use money with Mr. Bond, or with anybody else?

A. No, sir; he did not.

Q. Did he ever make a statement to you, to tell Mr. Bond that he could have money?

A. No, sir; he did not. He told me to use my influence with Mr. Bond; that he would do all he possibly could for him.

Q. Where were you stopping at

A. At the Tefft House.

Q. There were a number of I [illegible] there.

A. Yes, sir.

Q. While you were at the [illegible] you have a conversation with Mr. B. F. Simpson?

A. I had.

Q. What was that?

A. I was speaking to [illegible] him then shook hands with him. [illegible] Mr. Si[illegible]

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y?

Q. Did you have any conversation with Mr. Pomeroy in relation to Mr. Cummings, of Howard County, or Mr. Davis, of Ottawa County?

A. I do not know what counties the gentlemen in question represented; but I had conversations with him in regard to gentlemen of that name.

Q. State what those conversations were, if you recollect.

A. I think it was Mr. Davis that Mr. Pomeroy said he had heard it remarked all he wanted was his expenses paid. The idea was that it made little difference with him who he voted for for Senator, but that he would like his expenses paid.

Q. Did you state that fact to Mr. Pomeroy?

A. Mr. Pomeroy stated that fact to me.

Q. What else did he say?

A. There was some conversation with regard to the vote, and I do not remember just what it was; but Mr. Pomeroy said, "You had better, if need be, pay him something for his expenses;" or, "I do not mind paying something for a member's expenses;" but he remarked, at the same time, that he did not want to buy his vote.

Q. Did he specify any amount that he would pay for expenses?

A. He specified no amount that he would pay for expenses, but said to me, "Give him a couple of hundred dollars," or "two or three hundred dollars."

Q. What conversation did you have in reference to Mr. Cummings?

A. We had a conversation with regard to securing his vote.

Q. What was the conversation?

A. I do not remember fully what the conversation was; but he did not authorize me to pay Mr. Cummings any money for his vote. I can state that. I do not know but that there might have been something said about Cummings wanting money, but he did not authorize me to pay him any money.

Q. Did he authorize you to pay anybody any money?

A. Only in the way I stated: "Give Davis a couple of hundred dollars," or "two or three hundred dollars;" that he did not mind paying the expenses of his friends, but he remarked at the same time that he did not wish to buy his vote.

Q. Was anything said about Mr. Bacon.

A. Not at that conversation.

Q. At any other conversation?

A. Yes, sir.

Q. State what was said in relation to Mr. Bacon.

A. I spoke to him with regard to Mr. Bacon's vote; I thought that Mr. Bacon would vote for him, but told him that I was fearful he would not get Bacon's vote. He asked why. "Because," said I, "I think Bacon wants money for his vote." "Well," he said, hurriedly, "I cannot buy any votes." That was one conversation that I had with him. After that I had another conversation with him, and the substance was the same, though I do not remember the language.

Q. Did you offer Mr. Bacon any money for his vote?

A. I think not. I had several conversations with Mr. Bacon, and I think I myself never offered any money for his vote. I was the bearer of a message from Judge Horton to him.

Q. When was that?

A. That was the day of the meeting of the joint convention.

Q. State that circumstance.

A. Mr. Bacon and Mr. Horton had had a meeting in a room of the Tefft House the night before that I was acquainted with. I knew of

the meeting, and knew that in that meeting Mr. Bacon's vote had not been secured.

Q. How did you know that?

A. I knew it from Mr. Bacon's own mouth. At the meeting of the joint convention, feeling anxious, I said to Mr. Horton, "Mr. Bacon is here now, and his vote should be secured; but," said I, "I do not believe it can be done without money." "Well," said he, "I am not authorized to pay any one any money." Then he told me, "If he votes for Pomeroy, and his vote is needed to elect him, when he goes down to the room he can have $2,000." At the same time he remarked that he was not authorized to pay any money.

Q. When was that conversation?

A. In the joint convention.

Q. When was the conversation with Horton?

A. That was at the time of the joint convention on the floor. It was a whispered conversation.

Q. Then did you go and tell Mr. Bacon what Judge Horton had said?

A. I think I said to Mr. Bacon, "If you vote for Pomeroy you can have $2,000 when you get down to the room." I am not sure whether I told him that Horton had told me to bear the message or not.

Q. Was Mr. Bacon in his seat at the time you made that remark to him?

A. Mr. Bacon was not in his seat; he was going toward his seat; I addressed him while standing.

Q. Did you whisper it into his ear, or talk it aloud?

A. It was a matter that I would not talk very loud. I do not know that I whispered it, but I spoke in a low tone at all events.

Q. Did you ever have any other conversation with Mr. Bacon in reference to that matter?

A. Yes, sir; I had a conversation with him at different times. I spoke with him just after he left the room in which he and Mr. Horton were having a consultation.

Q. Do you recollect the number of that room?

A. I think it is 104.

Q. Whose room was that room, No. 104?

A. It was a room occupied by Captain Hokes, of Sumner County, and by Colonel Abbott, of Sumner.

Q. Were Captain Hokes and Mr. Abbott friends of yours?

A. They were.

Q. Had Mr. Abbott been your attorney in your contested case?

A. He had been.

Q. When was this interview between Mr. Bacon and Judge Horton?

A. I am quite sure it was the night previous to the joint convention.

Q. That was on Tuesday night, then. How did that interview come about?

A. That interview was brought about by my own and Mr. Bacon's solicitation. Mr. Bacon desired to see Mr. Horton. I do not know but I might have spoken to Bacon with regard to his seeing Horton; I will not be positive about that, but I will say it was an agreement between Mr. Bacon and myself that he should see and converse with Mr. Horton.

Q. Before that time had you had conversations with Mr. Bacon?

A. I had.

Q. In reference to his voting for Mr. Pomeroy?

A. Yes, sir.

Q. Did you suggest to Mr. Bacon that he had better see Judge Horton?

A. I am not sure whether I did or not, though I would say that the understanding was brought about between Bacon and myself, that he had better consult with Mr. Horton.

Q. Who designated the room No. 104 as the place of meeting?

A. Myself.

Q. And why did you do that?

A. I did it for the reason that I desired Mr. Bacon to vote for Mr. Pomeroy, and I thought by consulting with Mr. Horton it might possibly be brought about.

Q. Was Mr. Horton in room 104 when you went in there?

A. No, sir.

Q. How did Mr. Horton come to be in room 104?

A. He went there at my request and at the request of Mr. Bacon for me.

Q. Who went to him and brought him in there?

A. I did.

Q. Where did you find him?

A. I am not sure about that; somewhere about the hotel; I presume likely about his own room; but I am not positive.

Q. Were you in the room during the interview between Mr. Bacon and Mr. Horton?

A. I was not.

Q. How long did that interview last?

A. I presume fifteen minutes; it might have been longer; it might have been half an hour; I would not be positive about that.

By Mr. VICKERS:

Q. Was it understood by Mr. Pomeroy, when he authorized you to say to Mr. Davis that he could have two or three hundred dollars, that Mr. Davis was his friend in the senatorial canvass?

A. I do not think Mr. Davis was regarded as strictly anti-Pomeroy, nor as positively secured for Pomeroy. You have misunderstood, I judge, by the nature of your question.

Q. My question is, how did Mr. Pomeroy understand him?

A. I inferred from what he said that he thought Mr. Davis was favorable to him, though not positive in the matter. What I was saying was that I think you misunderstood me from your question. From the question you inferred that I said that Mr. Pomeroy told me to tell Davis that I was authorized to pay him two or three hundred dollars.

Q. No, that he could have it. I will repeat the question. Was it understood by Mr. Pomeroy, when he authorized you to say to Mr. Davis that he could have two or three hundred dollars, that Mr. Davis was his friend in the senatorial canvass; did he understand it so?

A. My testimony was this: that Mr. Pomeroy said to me, "Give him two or three hundred dollars," or "a couple of hundred of dollars." He did not tell me to say anything to Mr. Davis, but the inference was, as he wanted something for his expenses, that he did not mind paying something, and he remarked as I stated.

By Mr. HORTON:

Q. Did Mr. Pomeroy give you two or three hundred dollars to hand to Mr. Davis?

A. He did not.

Q. Did he ever give you a dollar to hand to Mr. Davis?

A. No, sir.

Q. Did he ever give you a dollar to hand to any member of the legislature?

A. No, sir.

Q. Did he ever give you a dollar at all?

A. At one time after my contested seat was decided and it was given to the other man, I was in his room and he said, "Mr. Rohrabacher, you may want something for your incidental expenses here," and handed me a fifty-dollar greenback.

Q. Was that before or after you were a member?

A. That was after; that was after I ceased to be a member.

Q. Did you have any intimation from Mr. Bacon that he wanted to sell his vote?

A. Yes, sir.

Q. That was your understanding from him?

A. Yes, sir.

Q. You say you took a message from me to Mr. Bacon. Just produce that message.

A. It was verbal.

Q. Whereabouts was that message?

A. It was in the hall of the house of representatives.

Q. After the joint convention had met?

A. Just about or before the meeting of it.

Q. The joint convention of the legislature?

A. I believe it was then. It is possible, however, that it was before the first vote was taken.

Q. Before the vote was taken on the first day?

A. I say it is possibly so; but if my memory serves me it was at the time of the meeting of the joint convention.

Q. Fix a time. Was it before the first vote or after the first vote?

A. I would not fix it positively. I will tell you the time I think it was. I think it was when the house met the day of the joint convention, but before the senate came in.

Q. I gave you no writing, or anything of that kind?

A. No, sir.

Q. Merely a verbal statement to go to him?

A. It was just as I stated it.

Q. Have you been anxious to come here to Washington to testify?

A. Yes, sir.

Q. Solicited Mr. Pomeroy to bring you here, did you not?

A. Yes, sir.

Q. Do you not know that you were subpœnaed by the other side?

A. Yes, sir. I would like to tell why.

Q. (Handing a dispatch.) Read that dispatch, and say whether you sent that to Mr. Pomeroy.

A. In answering that I will say——

Q. You need not explain it. I ask, did you send that dispatch?

A. Yes. I will say, then——

Q. I will read the dispatch:

"TOPEKA, KANSAS, *February* 11, 1873.

"Hon. S. C. POMEROY:

"WASHINGTON, D. C.

"You had better have me summoned to Washington.

"C. A. ROHRABACHER."

Did you not write to Mr. Pomeroy asking him to have you come here?

A. I think I did. I wrote to him, and I think I mentioned that.

Q. (Handing a letter.) Look at that letter. See if it is your handwriting.

A. That is my handwriting.

Q. It reads:

"TOPEKA, KANSAS, *February* 9, 1873.

"DEAR SIR: Learning by the morning papers that you will ask to have a committee appointed by the United States Senate to investigate the charges brought against you, I write to say it is of importance that I be summoned before that committee, I having evidence that will prove the conspiracy, and show they (the enemy) were ready to override the law for the purpose of accomplishing their end.

"I start to-morrow for Shelbina, Mo., to look up York's antecedents. Please address me there.

"I am, very truly and hopefully, yours,

"C. A. ROHRABACHER.

"Hon. S. C. POMEROY,

"*Washington, D. C.*"

Do you know Alfred Ennis at Topeka?

A. I do.

Q. Had you ever made a proposition to him that for the sum of $50 you would not testify before the investigating committee at Topeka?

A. No, sir. I would say before going any further that I want to explain this one matter.

Q. You will have an opportunity. Just answer my questions now. (Handing a letter.) Whose writing is that?

A. That is my own.

Q. It reads:

"I am just informed by D. L. Payne that I will soon be called before the committee. It is not best that I should go there; it is not best that I should be called. I want $50 for expenses, so that I can go away."

Do you know Mr. Horn here?

A. Yes, sir.

Q. After you wrote that application to Mr. Ennis, did you not apply to him for money?

A. I do not think I did. There was money mentioned by him. I do not think that I applied to him for any. I do not remember having done so. I remember, however, his saying something about having no money, and remember your telling me that you had gone to him for some money to pay for some dispatches.

Q. Where did you reside before you came to Kansas?

A. I resided in Waterloo, Black Hawk County, Iowa.

Q. Whereabouts were you the two years previous to going to Kansas; in what particular place did you reside?

A. I resided in Waterloo, Black Hawk County, Iowa. I would be pleased, Mr. Horton, if you would allow a little explanation as we go on.

The CHAIRMAN. You will have an opportunity before you leave the stand.

Q. By Mr. HORTON. (Producing papers.) Look at these papers. See if you are the Rohrabacher who is mentioned in them?

A. I suppose this refers to——

Q. This is a record of the conviction of one C. A. Rohrabacher for the crime of burglary in blowing open a safe. Is the person mentioned in that conviction the same person as yourself?

A. I will say this, for the benefit of the committee and the gentleman——

Q. Yes, or no?

A. It is not necessary for me look at that. I will say that I was convicted in Iowa for the crime of another, and was sentenced to the penitentiary, served there two years and a half, and was finally pardoned by a petition going to the governor, asking my pardon, and stating that events had occurred after my conviction showing my innocence. There is a gentleman on the floor here who is acquainted with all the facts in the case.

Q. Were you convicted with one W. H. Knight?

A. I was.

Mr. HORTON. I desire to offer in evidence the conviction of this man, C. A. Rohrabacher, for the crime of burglary.

The WITNESS. I admit that. It is not necessary.

The record was admitted and is as follows:

Be it remembered that, at a term of the district court of the State of Iowa, in and for Bremer County, held in the city of Waverly therein, on the 8th day of May, 1865, was present the Honorable William B. Fairfield, sole presiding judge of the twelfth judicial district of said State, and judge of said court; John E. Burke, district attorney of said district; N. M. Smith, sheriff of said county, and H. C. Moore, clerk of said court; when the following, among other proceedings, were had, to wit:

State of Iowa *vs.* W. H. Knight, C. A. Rohrabacher, W. R. Pollard.

And now to wit: On this 9th day of May, A. D. 1865, it being the 2d day of the regular May term of the district court of Bremer County, Iowa, the above and foregoing entitled cause came on for hearing on a change of venue from Delaware County, Iowa, when the attorney for defendants present a motion to the court for a continuance, which is overruled by the court. Said attorney then asks leave to file an amended application for a continuance. Said application is filed and examined by the court and refused. The counsel for defendants then asks that a special venire issue to fill the panel of petit jurors, which is also refused by the court. Defendants except, when the jury are empanelled and sworn, and H. P. Brown is appointed by the court to take and report the testimony.

And afterward, on the 12th day of May, 1865, the following proceedings were had, to wit:

State of Iowa *vs.* C. A. Rohrabacher.

Now, to wit: On this 12th day of May, A. D. 1865, the above-entitled cause is argued and submitted to the jury after hearing, received the charge of the court, retire under the charge of a sworn officer to deliberate upon a verdict, and on Saturday, May 13, at 3 o'clock a. m., return into court with the following verdict: We, the jury, find the defendant guilty. Signed: O. B. Miller, David Hemple, O. F. Main, G. W. Avery, William Gleason, B. C. French, G. E. Ellsworth, N. J. Henry, B. S. Freeman, A. Austin, H. C. Keeney; H. J. Hoffman, foreman.

And afterward, to wit: On the 13th day of May, 1865, the following proceedings were had, to wit:

State of Iowa *vs.* C. A. Rohrabacher et als.

And now to wit: On this 13th day of May, A. D. 1865, it being the

sixth day of the regular term of the district court, the defendants in the above-entitled cause file a motion for a new trial, which is overruled by the court, to which ruling the defense excepts. Whereupon the prisoner is produced in court, and arraigned and asked by the court if he has anything to say why sentence should not be passed upon him. Prisoner still pleads his innocence, when the court sentences the said Christian A. Rohrabacher to imprisonment in the penitentiary of Iowa for the term of six years, and bail on appeal-bond fixed at $15,000. The case of the State of Iowa *vs.* Pollard changed by consent to Butler County, Iowa:

STATE OF IOWA, *Bremer County, ss:*

I, M. F. Gillett, clerk of the district court of the State of Iowa in and for Bremer County, hereby certify that the above and foregoing is a true, complete, and compared transcript of the court record, in the cause in which the State of Iowa is plaintiff and C. A. Rohrabacher is defendant, as fully as the same appears of record in my office.

In witness whereof I have hereunto set my hand and the seal of said court this 20th day of December, 1872.

M. F. GILLETT,
Clerk District Court Bremer County, Iowa.

Filed January 4, 1873.

JOHN G. TUCKER,
Notary Public.

I, W. H. Smallwood, secretary of state of the State of Kansas, do hereby certify that the above and foregoing is a true and correct copy of the original transcript, and of all the indorsement thereon, noted now on file in this office in the contested election case of Miller *vs.* Rohrabacher.

In testimony whereof I have hereunto subscribed my name and affixed the great seal of State. Done at Topeka this 20th day of February, A. D. 1873.

[SEAL.] W. H. SMALLWOOD,
Secretary of State.

JUNE TERM, 1865.

THE STATE OF IOWA *vs.* CHRISTIAN A. ROHRABACHER. } Appeal from Bremer County district court.

This cause having been submitted for the consideration of the court, and the court being now sufficiently advised in the premises, find there is no error to examine in the judgment and proceedings of the court below and file their written opinion. It is therefore considered, ordered, and adjudged by the court that the judgment of the court below be affirmed; and it is farther ordered and adjudged that the defendant and appellant, Christian A. Rohrabacher, be confined in the penitentiary of the State of Iowa, at hard labor, for the term of six years, to date from the receipt of a copy of this judgment being furnished the sheriff of said county of Bremer, by the clerk of the district court of Bremer County; and it is farther ordered that the clerk of the court forthwith furnish the clerk of the district court of Bremer County a certified copy of this judgment; and that said clerk of Bremer County shall furnish a certified copy

A. I was.

Q. State what conversation you had with Mr. Pomeroy in reference to Mr. Bond.

A. That is all the substance of it; that he told me to come at 12 o'clock with Mr. Bond; that night Mr. Bond was sick and did not go.

Q. Did you have any other conversation with Mr. Pomeroy?

A. I saw him again.

Q. When was that?

A. Next day.

Q. Was anything said in reference to Bond?

A. I told him Mr. Bond could not come that night; he was sick.

Q. Anything else said?

A. He told me he wished me to use my influence with Mr. Bond; that was about all.

Q. Was there anything else?

A. No, sir; not that I know.

Q. Did you make any statement to Mr. Bond?

A. I did.

Q. What did you state to Bond?

A. I told Mr. Bond I would like him to vote for Mr. Pomery; that it was better for us to get a man from Atchison than from Southern Kansas; it would be of more benefit to the city of Leavenworth.

Q. Did you make any statement in reference to what Mr. Bond could get if he voted for Mr. Pomeroy?

A. I told Mr. Bond that I should think he could get an office or some money, provided he would support Mr. Pomeroy and not fight him, the same as he has done.

Q. You told Mr. Bond that?

A. Yes, sir.

Q. Why did you tell Mr. Bond that?

A. I was thinking he could get an office or some money.

Q. Did you have any conversation of that kind with Mr. Pomeroy?

A. No, sir; I had not.

Q. Did Mr. Pomeroy say anything of that kind to you?

A. Mr. Pomeroy told me to use my influence with him, and he would do the best he could for Mr. Bond.

Q. Did he say how he would do the best he could for Mr. Bond?

A. He did not.

Q. How many conversations did you have with Mr. Pomeroy?

A. Three.

Q. When was the other conversation?

A. It was after we had a caucus of the delegation of the city of Leavenworth, and Dr. Morris, of Leavenworth, asked me to speak in regard to it, and I gave my opinion that I would sooner vote for Mr. Pomeroy than any Southern Kansas man.

Q. I am not talking about what transpired in the caucus, but what transpired in the interview between you and Mr. Pomeroy.

A. I told Mr. Pomeroy that the delegation of Leavenworth, I thought, was in his favor at present. That was all that I spoke to Mr. Pomeroy in regard to it.

Q. In any conversation you had with Mr. Pomeroy in reference Bond, was anything said about Bond getting any money?

A. No, sir; Mr. Pomeroy did not tell me any such thing. I told Mr. Bond so.

Q. You did tell Mr. Bond so?

A. I did.

of the original transcript, and of all the indorsements thereon noted now on file in this office, in the contested-election case of Miller *vs.* Rohrabacher.

In testimony whereof I have hereunto subscribed my name and affixed the great seal of state. Done at Topeka this 20th day of February, A. D. 1873.

[SEAL.] W. N. SMALLWOOD,
Secretary of State.

Q. (By Mr. HORTON.) Are you the Rohrabacher whose case appears in the Iowa Reports, volume XIX: "The State of Iowa *vs.* Rohrabacher, and the State of Iowa against one Knight?"

A. I am.

Mr. HORTON. That the circumstances of this crime may be fully understood by the committee, I desire to offer in evidence so much of this report as details the circumstances connected with this man's conviction.

(The following extracts from the volume of Iowa Reports referred to were put in evidence:)

[THE STATE OF IOWA *vs.* ROHRABACHER.]

"*Burglary.*—For the circumstances under which the offense charged was committed, see the State of Iowa *vs.* Knight, *ante.*

"The material facts will be found in the opinion."—(XIX Withrow Iowa Reports, 155.)

[THE STATE OF IOWA *vs.* KNIGHT.]

"VI. The next question relates to the admission in evidence of certain declarations of the co-defendants, Rohrabacher and Pollard. The question here made is novel, and it is essential to state the attitude of the case at the time, the nature of the testimony admitted, and the object of it. The money was stolen from one of Lillie's patent safes (old patent) which had been forced and blown open. It was shown upon the trial that two or more persons must necessarily have been concerned in the commission of the offense, and there was much independent evidence, aside from confessions, inculpating the defendants.

One Yates, of the Chicago detective force, came to Iowa and had reason to suspect the defendants. Unknown to them, he followed Knight and the others to different places. Himself invisible, he pursued Knight like a shadow; noiselessly but certainly, with or after him. From Waterloo he followed him to Davenport; then went to Burlington; thence back to Davenport. One Felker, passing under the name of Black, was employed by the public officers to assist Yates. Felker's *rôle* was that of a decoy, to play the fellow-burglar. He and Knight soon became intimate, and detailed to each other their various exploits. Felker got up a sham "sight" on the safe of the sheriff of Scott County, (the sheriff being notified in advance,) and it was broken open by Knight and Felker. Felker occupied room 44 at the Scott House, Davenport, and Yates the adjoining room, 43. A strip was taken from under the door between the two rooms, and the draft so arranged as to make it easy to overhear any conversation occurring in Felker's room. Knight called upon Felker at No. 44, at a time when Yates and Westfall, the sheriff of Buchanan County, and Lyter, the sheriff of Scott County, were in No. 43, with ears to the floor. At that interview, as shown by the testimony of Yates, Felker, and Westfall, corroborated by Lyter, and at other times, Knight admitted that it was he, Rohrabacher,

TUESDAY, *February* 25, 1873.

CHRISTIAN A. ROHRABACHER sworn and examined.

By Mr. SIMPSON:

Question. State where you live.

Answer. I reside in Sumner County, Kansas.

Q. How long have you lived there?

A. My residence in Sumner County has been a little less than a year; in Kansas, however, it has been something over a year.

Q. Were you in Topeka during the recent senatorial election?

A. I was.

Q. When did you go there?

A. I went there a short time previous to the convening of the legislature. I think the week previous.

Q. Did you occupy a seat in the legislature?

A. I did for eleven days.

Q. Did you have a contested election case?

A. My seat was contested by my opponent in the election. The committee on elections brought in a report in favor of the contestor on the ground that some illegal votes had been polled, he having taken evidence, I having taken none, and relying on the informality of the notice served upon me my counsel advised me to take no evidence, and consequently the evidence being *ex parte*, the committee reported in his favor, and he took my seat.

Q. Where did you stop at in Topeka during that contest?

A. I stopped at the Tefft House part of the time, and at the Fifth Avenue House part of the time.

Q. Did you advocate the election of any particular person for United States Senator?

A. I did.

Q. What person?

A. Hon. S. C. Pomeroy.

Q. Did you have any conversation with Mr. Pomeroy during the contest?

A. I did.

Q. How frequent?

A. It would be impossible for me to state how frequent; it was quite frequently.

Q. Once a day?

A. I presume I saw him and spoke with him once a day. No; there was a part of the time that I did not see him every day. There were a few days while I was at the Fifth Avenue that I did not see him every day. At other times I saw him every day, though I cannot say that I had a conference with him so frequently.

Q. Did you have any conversation with him in relation to members of the legislature, and how they would vote?

A. Yes, sir.

Q. Were you authorized by him to secure, or try to secure, the votes of any members of the legislature for him?

A. It was understood that I was at work for him, and members were talked to.

Q. State what conversation you had with Mr. Pomeroy in relation to it.

A. I will say with regard to it that it would be impossible for me to relate here the conversations altogether that I had with Mr. Pomeroy.

Q. Did you have any conversation with Mr. Pomeroy in relation to Mr. Cummings, of Howard County, or Mr. Davis, of Ottawa County?

A. I do not know what counties the gentlemen in question represented; but I had conversations with him in regard to gentlemen of that name.

Q. State what those conversations were, if you recollect.

A. I think it was Mr. Davis that Mr. Pomeroy said he had heard it remarked all he wanted was his expenses paid. The idea was that it made little difference with him who he voted for for Senator, but that he would like his expenses paid.

Q. Did you state that fact to Mr. Pomeroy?

A. Mr. Pomeroy stated that fact to me.

Q. What else did he say?

A. There was some conversation with regard to the vote, and I do not remember just what it was; but Mr. Pomeroy said, "You had better, if need be, pay him something for his expenses;" or, "I do not mind paying something for a member's expenses;" but he remarked, at the same time, that he did not want to buy his vote.

Q. Did he specify any amount that he would pay for expenses?

A. He specified no amount that he would pay for expenses, but said to me, "Give him a couple of hundred dollars," or "two or three hundred dollars."

Q. What conversation did you have in reference to Mr. Cummings?

A. We had a conversation with regard to securing his vote.

Q. What was the conversation?

A. I do not remember fully what the conversation was; but he did not authorize me to pay Mr. Cummings any money for his vote. I can state that. I do not know but that there might have been something said about Cummings wanting money, but he did not authorize me to pay him any money.

Q. Did he authorize you to pay anybody any money?

A. Only in the way I stated: "Give Davis a couple of hundred dollars," or "two or three hundred dollars;" that he did not mind paying the expenses of his friends, but he remarked at the same time that he did not wish to buy his vote.

Q. Was anything said about Mr. Bacon.

A. Not at that conversation.

Q. At any other conversation?

A. Yes, sir.

Q. State what was said in relation to Mr. Bacon.

A. I spoke to him with regard to Mr. Bacon's vote; I thought that Mr. Bacon would vote for him, but told him that I was fearful he would not get Bacon's vote. He asked why. "Because," said I, "I think Bacon wants money for his vote." "Well," he said, hurriedly, "I cannot buy any votes." That was one conversation that I had with him. After that I had another conversation with him, and the substance was the same, though I do not remember the language.

Q. Did you offer Mr. Bacon any money for his vote?

A. I think not. I had several conversations with Mr. Bacon, and I think I myself never offered any money for his vote. I was the bearer of a message from Judge Horton to him.

Q. When was that?

A. That was the day of the meeting of the joint convention.

Q. State that circumstance.

A. Mr. Bacon and Mr. Horton had had a meeting in a room of the Tefft House the night before that I was acquainted with. I knew of

the meeting, and knew that in that meeting Mr. Bacon's vote had not been secured.

Q. How did you know that?

A. I knew it from Mr. Bacon's own mouth. At the meeting of the joint convention, feeling anxious, I said to Mr. Horton, "Mr. Bacon is here now, and his vote should be secured; but," said I, "I do not believe it can be done without money." "Well," said he, "I am not authorized to pay any one any money." Then he told me, "If he votes for Pomeroy, and his vote is needed to elect him, when he goes down to the room he can have $2,000." At the same time he remarked that he was not authorized to pay any money.

Q. When was that conversation?

A. In the joint convention.

Q. When was the conversation with Horton?

A. That was at the time of the joint convention on the floor. It was a whispered conversation.

Q. Then did you go and tell Mr. Bacon what Judge Horton had said?

A. I think I said to Mr. Bacon, "If you vote for Pomeroy you can have $2,000 when you get down to the room." I am not sure whether I told him that Horton had told me to bear the message or not.

Q. Was Mr. Bacon in his seat at the time you made that remark to him?

A. Mr. Bacon was not in his seat; he was going toward his seat; I addressed him while standing.

Q. Did you whisper it into his ear, or talk it aloud?

A. It was a matter that I would not talk very loud. I do not know that I whispered it, but I spoke in a low tone at all events.

Q. Did you ever have any other conversation with Mr. Bacon in reference to that matter?

A. Yes, sir; I had a conversation with him at different times. I spoke with him just after he left the room in which he and Mr. Horton were having a consultation.

Q. Do you recollect the number of that room?

A. I think it is 104.

Q. Whose room was that room, No. 104?

A. It was a room occupied by Captain Hokes, of Sumner County, and by Colonel Abbott, of Sumner.

Q. Were Captain Hokes and Mr. Abbott friends of yours?

A. They were.

Q. Had Mr. Abbott been your attorney in your contested case?

A. He had been.

Q. When was this interview between Mr. Bacon and Judge Horton?

A. I am quite sure it was the night previous to the joint convention.

Q. That was on Tuesday night, then. How did that interview come about?

A. That interview was brought about by my own and Mr. Bacon's solicitation. Mr. Bacon desired to see Mr. Horton. I do not know but I might have spoken to Bacon with regard to his seeing Horton; I will not be positive about that, but I will say it was an agreement between Mr. Bacon and myself that he should see and converse with Mr. Horton.

Q. Before that time had you had conversations with Mr. Bacon?

A. I had.

Q. In reference to his voting for Mr. Pomeroy?

A. Yes, sir.

Q. Did you suggest to Mr. Bacon that he had better see Judge Horton?

A. I am not sure whether I did or not, though I would say that the understanding was brought about between Bacon and myself, that he had better consult with Mr. Horton.

Q. Who designated the room No. 104 as the place of meeting?

A. Myself.

Q. And why did you do that?

A. I did it for the reason that I desired Mr. Bacon to vote for Mr. Pomeroy, and I thought by consulting with Mr. Horton it might possibly be brought about.

Q. Was Mr. Horton in room 104 when you went in there?

A. No, sir.

Q. How did Mr. Horton come to be in room 104?

A. He went there at my request and at the request of Mr. Bacon for me.

Q. Who went to him and brought him in there?

A. I did.

Q. Where did you find him?

A. I am not sure about that; somewhere about the hotel; I presume likely about his own room; but I am not positive.

Q. Were you in the room during the interview between Mr. Bacon and Mr. Horton?

A. I was not.

Q. How long did that interview last?

A. I presume fifteen minutes; it might have been longer; it might have been half an hour; I would not be positive about that.

By Mr. VICKERS:

Q. Was it understood by Mr. Pomeroy, when he authorized you to say to Mr. Davis that he could have two or three hundred dollars, that Mr. Davis was his friend in the senatorial canvass?

A. I do not think Mr. Davis was regarded as strictly anti-Pomeroy, nor as positively secured for Pomeroy. You have misunderstood, I judge, by the nature of your question.

Q. My question is, how did Mr. Pomeroy understand him?

A. I inferred from what he said that he thought Mr. Davis was favorable to him, though not positive in the matter. What I was saying was that I think you misunderstood me from your question. From the question you inferred that I said that Mr. Pomeroy told me to tell Davis that I was authorized to pay him two or three hundred dollars.

Q. No, that he could have it. I will repeat the question. Was it understood by Mr. Pomeroy, when he authorized you to say to Mr. Davis that he could have two or three hundred dollars, that Mr. Davis was his friend in the senatorial canvass; did he understand it so?

A. My testimony was this: that Mr. Pomeroy said to me, "Give him two or three hundred dollars," or "a couple of hundred of dollars." He did not tell me to say anything to Mr. Davis, but the inference was, as he wanted something for his expenses, that he did not mind paying something, and he remarked as I stated.

By Mr. HORTON:

Q. Did Mr. Pomeroy give you two or three hundred dollars to hand to Mr. Davis?

A. He did not.

Q. Did he ever give you a dollar to hand to Mr. Davis?

A. No, sir.

Q. Did he ever give you a dollar to hand to any member of the legislature?

A. No, sir.

Q. Did he ever give you a dollar at all?

A. At one time after my contested seat was decided and it was given to the other man, I was in his room and he said, "Mr. Rohrabacher, you may want something for your incidental expenses here," and handed me a fifty-dollar greenback.

Q. Was that before or after you were a member?

A. That was after; that was after I ceased to be a member.

Q. Did you have any intimation from Mr. Bacon that he wanted to sell his vote?

A. Yes, sir.

Q. That was your understanding from him?

A. Yes, sir.

Q. You say you took a message from me to Mr. Bacon. Just produce that message.

A. It was verbal.

Q. Whereabouts was that message?

A. It was in the hall of the house of representatives.

Q. After the joint convention had met?

A. Just about or before the meeting of it.

Q. The joint convention of the legislature?

A. I believe it was then. It is possible, however, that it was before the first vote was taken.

Q. Before the vote was taken on the first day?

A. I say it is possibly so; but if my memory serves me it was at the time of the meeting of the joint convention.

Q. Fix a time. Was it before the first vote or after the first vote?

A. I would not fix it positively. I will tell you the time I think it was. I think it was when the house met the day of the joint convention, but before the senate came in.

Q. I gave you no writing, or anything of that kind?

A. No, sir.

Q. Merely a verbal statement to go to him?

A. It was just as I stated it.

Q. Have you been anxious to come here to Washington to testify?

A. Yes, sir.

Q. Solicited Mr. Pomeroy to bring you here, did you not?

A. Yes, sir.

Q. Do you not know that you were subpœnaed by the other side?

A. Yes, sir. I would like to tell why.

Q. (Handing a dispatch.) Read that dispatch, and say whether you sent that to Mr. Pomeroy.

A. In answering that I will say——

Q. You need not explain it. I ask, did you send that dispatch?

A. Yes. I will say, then——

Q. I will read the dispatch:

"TOPEKA, KANSAS, *February* 11, 1873.

"Hon. S. C. POMEROY:

"WASHINGTON, D. C.

"You had better have me summoned to Washington.

"C. A. ROHRABACHER."

Did you not write to Mr. Pomeroy asking him to have you come here?

A. I had not.

Q. What amount of money had you with you—merely enough for the current expenses?

A. Merely for current expenses.

Q. Ten or twenty dollars?

A. Ten or twenty or fifty dollars, along there.

By Mr. SIMPSON:

Q. Did you state that you were pardoned out of the penitentiary by Governor Merrill?

A. I did.

Q. Did you present that letter of Governor Merrill to the committee on elections of the house of representatives of the State of Kansas?

A. I did.

Q. Did you show that letter to Mr. Pomeroy?

A. I did.

Q. When was that?

A. I showed it to Mr. Pomeroy the day of my arrival in Topeka. I will state that I also showed them to Judge Horton, and they both appeared well satisfied with them.

Q. Then at the time you occupied your seat there as a member of the legislature, and at the time you had these conversations with Mr. Pomeroy, he knew all these facts?

A. Yes, sir.

Q. You say that you stopped at the Tefft House?

A. Yes, sir.

Q. Did you pay your expenses at the Tefft House?

A. I did not.

Q. Do you know who did pay the expenses?

A. I do not.

Q. Who provided you a room at the Tefft House?

A. Mr. Crowell.

Q. Who is Mr. Crowell?

A. He is a mail-agent, a friend of Mr. Horton and Mr. Pomeroy. I think that is his office—mail-agent.

Q. You have said that Mr. Abbott was your attorney in the contested case before the legislature?

A. Yes, sir.

Q. Did you pay Mr. Abbott's expenses at the Tefft House?

A. I did not.

Q. Do you know whether he paid them or not?

A. I am not positive that he has, but I do not think he has. I requested Mr. Horton to have him put upon his list, and he said he would do so with pleasure.

Q. What list was that?

A. That was the list of those that were supposed to be Mr. Pomeroy's guests at the Tefft House.

Q. What room did you occupy at the Tefft House?

A. I did not stay all the time at the Tefft House, and I am not positive as to the number of the room that I occupied while there. It was right opposite from the room that Mr. Kalloch occupied. It was a room afterwards occupied by Mr. Tough.

Q. What floor was it?

A. I think it was the second floor from the dining-room.

Q. How long did you stay at the Tefft House?

A. I am not positive how long I staid there. I left there before the vote was taken for Senator.

Q. Where did you go then?
A. I went to the Fifth Avenue.
Q. Who provided you a room at the Fifth Avenue Hotel?
A. Mr. Crowell, the same gentleman who had given me a room at the Tefft. He assigned for a reason of my moving that the room I then occupied was claimed by Mr. Tough, a gentleman from Wyandotte, he having been promised the room; and as it was near Mr. Kalloch's, his friend, he desired that room, and I was asked to take another room at the Tefft House, but on account of it being very noisy there, so many gentlemen, my wife, who was with me, desired a more quiet place, and we went to the Fifth Avenue.
Q. Did you pay your expenses at the Fifth Avenue Hotel?
A. I did not.

By Mr. THURMAN:

Q. When did you first become acquainted with Mr. Pomeroy?
A. At Topeka.
Q. When?
A. On my arrival there a short time before the meeting of the legislature.
Q. This last meeting of the legislature?
A. Yes, sir.
Q. Did you take any letters of introduction to him?
A. I took the letter that I had from Governor Merrill, and I was introduced to him by Mr. Crowell.
Q. Did you take any letters of introduction to Mr. Pomeroy?
A. No other than that.
Q. None specially to him?
A. None specially to him. However, I will say that I had corresponded with one of his friends, and had been invited by that friend to the Tefft House.
Q. How many times did you see Mr. Pomeroy before he made that statement to you that you might give some money to somebody?
A. I could not say; I presume a dozen times.
Mr. HORTON. The witness speaks of one Dr. Davis. I desire to present a letter from him dated Topeka, 18th February, 1873. (Handing a paper to the chairman.)
The WITNESS. If I have not stated, I will state now, that I have never approached Dr. Davis in regard to this matter. I wish to have the whole facts known. I do not expect to please either side here. I presume this letter refers to my not having spoken to him in regard to giving him money; and I will say that it need not be shown, because I desire to state, if I have not stated it, that I never did approach him or offer him money.

By Mr. VICKERS:

Q. Were you ever authorized to do so?
A. In the way in which I stated.

By the CHAIRMAN:

Q. Had Mr. Davis ever approached you as wanting money?
A. No, sir.
Q. Never said anything to you about wanting money?
A. Not at all.
Q. You say Mr. Davis never approached you saying he wanted money at all?

A. He never did.

Q. And you never gave him money?

A. No, sir. I will state, in order to cover the whole thing, that I am not positive that I would know Mr. Davis if I saw him now, to call him by name. I do know Mr. Cummings, but I had the two confounded at one time. I am not positive now that I could pick out Mr. Davis.

By Mr. VICKERS:

Q. Did you ever receive a message from him, or anybody, about it?

A. Not at all.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

W. E. GUERIN recalled.

By Mr. HORTON:

Question. When is that money expected?

Answer. I was at the express office this morning and expected to get it, but this morning they told me it would certainly be here by half past two this afternoon. They think maybe it went by New York, which will detain it a day or two longer. There will be no delay on my part.

Mr. HORTON. A gentleman who is present, and who is a member of the legislature, informs me that that money is now in Topeka; and that he left there since Mr. Guerin left there.

The WITNESS. The chief clerk of the treasurer of the State told me the money would start on the same train we did.

By Mr. HORTON:

Q. Do you know that it did so start?

A. I have his word that it did.

Mr. HORTON. This gentleman, who is a member of the legislature, says that the legislature, on Friday, ordered the money back, when it was about to be sent here, and it is back there now.

The WITNESS. That is possible. I only know the officer told me it would start on the same train I did. I presumed that was sufficient.

Mr. HORTON. They claim that the money was being improperly sent away, and ordered it back by telegraph.

The WITNESS. I stated yesterday, in my testimony, that the chief clerk in the treasurer's office told me it should start on the same train I did. It was my expectation that it would be here by this time.

Mr. THURMAN. Had you not better send a dispatch to Topeka to inquire whether it has been sent?

The WITNESS. I can do so.

Mr. HORTON. This witness was subpœnaed for the purpose of bringing that money, and we supposed all the while that he would bring it.

The CHAIRMAN. What relief do you think the committee could afford you, Mr. Horton?

Mr. HORTON. I think the money should be ordered to be brought here.

Mr. SIMPSON. The first intimation we had that this money was not on the way comes from the other side; we supposed it was here.

Mr. BUCKINGHAM. When it comes do you expect to connect it with Mr. Pomeroy?

Mr. SIMPSON. Not unless we get the banker here from whose bank it came, and he has declined to come on a telegraphic summons. We desire to produce the money and the banker.

Mr. THURMAN. The exhibition of the money would be of no use; it has been abundantly proved that $7,000 was produced by Colonel York and delivered to the legislature.

Mr. HORTON. I think that it ought to be ordered to be sent on, and I am informed that it would be sent at once on a telegraphic order from this committee.

The CHAIRMAN. Is there any reason why you should not state to the committee what use you expect to make of that money, Judge Horton, on your side?

Mr. HORTON. There is at present.

Mr. THURMAN. You had better write out a statement on that point and submit it to the committee in confidence. How long does it take to get a package here from Kansas by express?

Mr. HORTON. Probably three days. If the committee will make the order to have it brought it will not delay anything.

The CHAIRMAN. It might be a little stretch of power for us to command that money now in the possession of the officers of the State to be brought here unless we send an officer with the *subpœna duces tecum.*

Mr. HORTON. There will be no trouble, I think, in getting it at once upon a telegram.

The CHAIRMAN. You can then prepare such a statement as Judge Thurman has suggested, and mean time proceed with your case.

Mr. HORTON. We will give to the committee this afternoon a statement of why we want this money produced. I understand now that the prosecution is closed.

The CHAIRMAN. Mr. Simpson, have you any other witnesses?

Mr. SIMPSON. No, sir. We have witnesses that we may call in rebuttal. We have a subpœna for the president and cashier of the Second National Bank of Leavenworth. Service was had on the president. Our theory is that that money came from the Second National Bank of Leavenworth, and the money not being here nor the witnesses, of course we are not prepared to offer anything further on that point.

The CHAIRMAN. With the understanding that the testimony is closed on the part of the prosecution, with the exception of rebutting evidence, the defence will proceed.

Mr. HORTON. We will proceed, with the understanding that our statement will be given to the committee, and with the expectation that the money will be sent for.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

I. S. KALLOCH sworn and examined.

By Mr. HORTON:

Question. State your name in full, your age, and residence?

Answer. I. S. Kalloch; forty-one years old; Lawrence, Kansas.

Q. Are you a member of the legislature of Kansas?

A. I am.

Q. State if you were in Topeka during the late senatorial contest?

A. I was.

Q. At what hotel did you reside during the senatorial election?

A. The Tefft House.

Q. State whether you know of any members of the legislature having their bills paid at the Tefft House by Mr. Pomeroy?

A. I do not.

Q. State whether or no Mr. Pomeroy paid your bill at the Tefft House.

A. He did not.

Q. Who occupied a room opposite to you at first?

A. I found it occupied by Mr. Rohrabacher when I arrived there.

Q. Any lady or woman with him.

A. Yes, sir.

Q. What was done about the room?

A. I had previously engaged the room for Captain Tough. I took means to secure it for the captain, as it belonged to him.

Q. State what occurred about that.

A. Mr. Rohrabacher stated to me that Mr. Pomeroy, or some of his friends, had assigned him the room. I waited upon Mr. Pomeroy in reference to it. Mr. Pomeroy said he had no interest in keeping him there; that he was a dead beat, and he would rather he would not be there.

Q. Did he leave the hotel?

A. He did.

Q. State how the friends of Mr. Pomeroy voted on the question of Mr. Rohrabacher's contested seat.

By Mr. THURMAN:

Q. Was that contest before the senatorial election?

Mr. HORTON. Yes, sir. (To the witness.) In what way did they vote—in favor of Mr. Rohrabacher retaining his seat or against it?

A. Against it, as I understood it.

Q. How did you vote?

A. Against it.

By Mr. THURMAN:

Q. How was the vote; does the record show?

A. The record shows; I forget exactly; there was a large majority in favor of Mr. Miller retaining his seat. He was the contestee of Mr. Rohrabacher.

By Mr. HORTON:

Q. How did Mr. Miller vote on the senatorial election on the first day?

A. I think he voted for Mr. Pomeroy.

Q. (Submitting a paper.) Mr. Kalloch, was that letter addressed to you?

A. It was.

Q. This resolution expelling Mr. Rohrabacher from the hall of the house of representatives, because his presence was an insult to the dignity of the house; what Rohrabacher does that refer to?

A. It refers to the gentleman who testified here this morning.

Q. Were you present when that vote was taken?

A. Yes, sir; I was.

Q. The Mr. Kalloch referred to in that letter is yourself?

A. Yes, sir.

Q. How did Mr. Pomeroy regard Mr. Rohrabacher prior the senatorial election? From your conversation with him, do you know whether he wanted him to retain his seat or not?

A. As I understood him, he regarded Rohrabacher as unworthy of his confidence, and of that of his friends.

Mr. THURMAN. This resolution does not expel him, but denies him the privilege of the hall. Where is the resolution of expulsion?

Mr. HORTON. We have not that. (To the witness.) Do you recollect

whether the chairman of the election committee in the house was friendly or unfriendly to Mr. Pomeroy?

A. My impression is that he was friendly.

Q. How was the report in relation to Mr. Rohrabacher, for or against his retaining his seat?

A. Against it.

Q. Mr. York stated in his evidence that you were betting a thousand-dollar check upon the result of the election, or words of that import, prior to the senatorial election at Topeka? State whether or not that is true.

A. No, sir; it is not true.

Q. Did you have any thousand-dollar check in your possession at that time?

A. Not that I recollect of.

Q. State if you offered to bet a thousand-dollar draft that Mr. Pomeroy would be elected?

A. No, sir.

Q. State if you know anything of the use by Mr. Pomeroy, or any person for him, of corrupt means to secure his election to the United States Senate.

A. I do not.

Q. Do you know Mr. Bacon, a member of the legislature?

A. I do.

Q. State if you had any conversation with him since the senatorial election in regard to his desiring to be a member of the investigating committee at Topeka?

Mr. THURMAN. (To Mr. Horton.) Was Mr. Bacon inquired of touching that?

Mr. HORTON. I did not ask him touching the conversation because I did not know it then.

Mr. THURMAN. Is Mr. Bacon here?

Mr. SIMPSON. He is.

By Mr. HORTON:

Q. Did you have any conversation with him about desiring to be on the investigating committee at Topeka?

A. I did.

Q. What did he say in that respect?

A. He said he was very friendly to Mr. Pomeroy, and in answer to a question of mine as to whether he knew if Mr. Pomeroy used any improper means to secure his election, he said he did not.

Q. Where was that conversation?

A. It was in the committee-room, adjoining the house of representatives.

Q. In what city?

A. Topeka.

Q. When and where did you make the acquaintance of Mr. York?

A. I made his acquaintance at his place of residence at Independence, a few weeks before the meeting of the legislature.

Q. Did you have a conversation with him at that time concerning the senatorial election; if so, what was it?

A. I had a conversation with Mr. York at his house in the presence of several other gentlemen.

Q. What was that conversation?

By the CHAIRMAN:

Q. When was that?

A. A few weeks before the meeting of the legislature; I cannot exactly state the time.

By Mr. HORTON:

Q. State the conversation.

A. The point in the conversation which particularly impressed me was his remark concerning Mr. Pomeroy. He said Mr. Pomeroy had been very kind to him in Washington, and that he felt under great personal obligations to him, and he did not believe Mr. Pomeroy to be as bad a man as many persons charged him with being; that he did not credit the charges of corruption that had been made against him; that he would be glad to support him, but that the feeling of his constituents he understood to be such that he did not believe it would be consistent for him to do it.

Q. Do you know one Colonel S. W. Eldridge?

A. Yes, sir; I know one Mr. S. W. Eldridge.

Q. How was he in the senatorial election at Topeka; friendly or unfriendly to Mr. Pomeroy?

A. He was opposed to Mr. Pomeroy.

Q. Bitterly?

A. Bitterly so; yes, sir.

Q. Where does he reside or has he resided?

A. In Lawrence, Kansas.

Q. Do you know a member of the legislature named Eldridge?

A. I do.

Q. Was he favorable toward the close, or against Mr. Pomeroy?

A. Favorable.

Q. State what you know, if anything, of the parties in the conspiracy to beat Mr. Pomeroy—in relation to their plans, and give their names.

A. I know nothing very definitely upon that point, further than common conversation among those opposed to him for several weeks before—that such a plan as was adopted would be adopted, if necessary, in order to defeat him.

Q. State if you were present at an interview between J. C. Horton, one of the parties named in his testimony, and this man you have named, at Topeka, as bitterly against Mr. Pomeroy?

A. I was.

Q. What was said in regard to Mr. Pomeroy's matter prior to the senatorial election?

A. In substance the remark that I have just stated was made by Mr. Horton—that some such plan as was adopted at last would be adopted if necessary.

By Mr. THURMAN:

Q. That will not do; state what he said.

A. I will, if I can.

By Mr. ALCORN:

Q. Yes; state as near as you can.

A. That somebody would be found who could be induced to get money from him and present it to the legislature—the joint convention—as an evidence of his corruption.

By Mr. HORTON:

Q. Was anything said in that conversation about money being raised, or previous to that time, by the same parties?

A. There was.

Q. State what was said in that regard.

A. He stated his desire to raise a fund to prosecute Mr. Pomeroy, through the papers, especially through the Lawrence Journal.

Q. Did either of them state about giving money themselves?

A. Mr. Horton said he had to use some, and wanted Mr. Eldridge to help toward raising a fund of, say, a thousand dollars for that purpose.

Q. At the time you were at Topeka, were you one of the advisers in the contest there for Mr. Pomeroy?

A. I considered myself so.

Q. State if you had any opportunity to see what was being done by him and his friends to secure his election.

A. I had access to him and his friends, and was with them a great deal.

Q. Did you learn from him or his friends that money was to be used to influence any member of the legislature?

A. I did not. They all assured me to the contrary.

Q. Prior to the morning of the joint convention, how did you regard Mr. Pomeroy's chances up to that morning?

A. I regarded his election as certain.

By the CHAIRMAN:

Q. Can you give the language of Mr. Horton as to raising a thousand dollars?

A. I do not think I could any nearer than I have, sir.

Q. The conversation was as to raising money for what purpose?

A. To keep articles denouning Mr. Pomeroy in the papers, especially in the papers published in Lawrence.

By Mr. BUCKINGHAM:

Q. Do you say that in your conversation with Mr. Horton you learned from him that there was a plan by which some party was to obtain money from Mr. Pomeroy and then expose him?

A. He said that plan would be adopted, if necessary, to defeat him.

Q. You received that from Mr. J. C. Horton?

A. Yes, sir; I heard him say that.

Q. How long before the Tuesday on which the two houses balloted?

A. It was some time in the first part of January, I think.

Q. Then the meeting which you say took place the very night before the two houses met; at your interview which you say took place——

A. No, sir; that was not at the meeting which I said took place at that time. It was another one.

By Mr. VICKERS:

Q. Did you mention the subject of that conversation to Mr. Pomeroy prior to the election?

A. I do not know that I mentioned that particular conversation to him. I mentioned to him that that was common talk among his enemies, and was a thing to be particularly guarded against.

By Mr. SIMPSON:

Q. When did you arrive at Topeka?

A. I think on the Saturday before the assembling of the legislature.

Q. On the Saturday before the meeting of the legislature?

A. I think so.

Q. Was Mr. Rohrabacher there at the time?

A. Rohrabacher was there when I arrived.

Q. In possession of the room you talked about?

A. Yes; whether in it I will not be certain, but he was there when I arrived.

Q. How long did Mr. Rohrabacher occupy that room after he arrived at Topeka?

A. I should think, perhaps, two days—a day or two—perhaps three; I would not be certain about that.

Q. When was this conversation you had with Mr. Pomeroy in relation to Mr. Rohrabacher, in which he said he was a dead beat?

A. It was just before Rohrabacher was leaving the room, or being requested to leave it.

Q. Where was it?

A. The conversation with Mr. Pomeroy?

Q. Yes, sir.

A. In Mr. Pomeroy's room.

Q. At the Tefft House?

A. Yes, sir.

Q. Did you go to Topeka as a supporter of Mr. Pomeroy for the Senate?

A. A little undecided, and favorably inclined toward him.

Q. In the conversation you had with Colonel York at his house did he say that he would vote for Mr. Pomeroy?

A. He did not, as I stated. I stated in my examination that he said that personally he would be inclined to support him, but on account of the prejudice against him among many of his constituents he thought it doubtful if he could, or words to that effect.

Q. Did he say anything about his plan of electing a United States Senator?

A. I think not.

Q. Did he make any suggestion as to how an organization could be had against Mr. Pomeroy?

A. The conversation took no turn of that description that evening that I recollect of.

Q. Did he say anything about acting with the anti-Pomeroy men when he got to Topeka?

A. Not that I recollect of.

Q. And that the way for them to do was to hold an anti-Pomeroy caucus, and determine in that caucus upon a candidate against Mr. Pomeroy?

A. I do not remember his saying so.

Q. What was the object of your visit to Mr. York at that time?

A. He was a member-elect of the senate, and I supposed I might be a candidate for the position of Senator, and I wanted to interview him upon the subject as to how he would be inclined to feel toward myself.

Q. Was not this whole subject of the senatorial election discussed between you and Mr. York at that time?

A. I think not very extensively.

Q. How much of an interview did you have with him as to length of time?

A. About an hour, perhaps.

Q. Where was this conversation between yourself, Mr. Eldridge, and Mr. Horton, referred to in your examination-in-chief?

A. It was in my room, at Lawrence.

Q. Which Eldridge was that who was present and participated in that conversation; S. W. Eldridge, or T. B. Eldridge, a member of the house from Montgomery County?

A. T. B. Eldridge, a member of the house from Montgomery.

Q. It was not the Eldridge who was violently against Mr. Pomeroy who participated in that conversation?

A. No, sir.

Q. It was the Eldridge in favor of Mr. Pomeroy?

A. Not at that time; he was not then favorable to him.

Q. At that time was he opposed to the election of Mr. Pomeroy?

A. At that time he was favoring my election, if I could be elected; and if not, was favoring Mr. Pomeroy.

Q. He was first your friend and after that, if you could not be elected, Mr. Pomeroy's?

A. Yes, sir; inclined to be.

Q. What was the object of that gathering in your room, at which Mr. Horton and Mr. Eldridge were present?

A. I had no object in it.

Q. Both of these gentlemen were friends of yours, were they not?

A. I understood both of them to be inclined to be at that time.

Q. Friends to you?

A. Yes, sir.

Q. This conversation you had in relation to the senatorial election was a conversation in your interest, was it not?

A. So far as Major Eldridge and myself were concerned, I should say it was. So far as Mr. Horton was concerned it was rather against Mr. Pomeroy.

Q. Mr. Horton was an anti-Pomeroy man?

A. He appeared to be.

Q. He was in favor of the election of anybody as against Mr. Pomeroy, but at that time desired your election as against Mr. Pomeroy, desiring you to be the anti-Pomeroy candidate. Was that his position?

A. He made some statements that led me to infer that at that time.

Q. There was some talk about raising a fund there to contribute to a newspaper to oppose the election or re-election of Mr. Pomeroy?

A. Yes, sir.

Q. Can you give us that conversation or the substance of it, stating what each one said in relation to it, or have you a distinct recollection on the subject?

A. No, I have no recollection of the general drift of the conversation; we were together some time. We talked about various matters incidentally to the thing, that I do not remember particularly about. I recollect particularly Mr. Horton's statement in reference to the necessity of having some funds to carry on or keep the Lawrence Journal hot on the subject of Pomeroy.

Q. Did you offer to contribute to the purpose?

A. Me?

Q. Yes.

A. I did not.

Q. Did you not say to Mr. Horton that he might look to you for a contribution of a hundred dollars, but you did not want him to say anything about it?

A. I did not.

Q. At any other conversation you had with Mr. Horton in reference to that subject did you make that remark?

A. Not that I recollect of.

Q. Did you have frequent conversation with Mr. Horton in reference to the matter?

A. Well, three or four times I did.

Q. Anything said about the Ross letter, or lithographing the Ross letter?

A. Well, he supposed it would take a couple hundred dollars; he didn't know how much, to get that thing right—the lithograph.

Q. Did you make any suggestion in reference to it?

A. I think I told him I guessed he could get it done for a hundred dollars.

Q. What district do you represent in the legislature?

A. The fifty-third.

Q. Of what townships and wards is it composed?

The CHAIRMAN. Is that important?

Mr. SIMPSON. I want to show as to the candidates against him, and how that was managed.

The CHAIRMAN. What has that to do with the charges against Mr. Pomeroy?

Mr. SIMPSON. I want to see whether it has anything to do with him.

The CHAIRMAN. This is not proper cross-examination on anything that has been brought out, and we cannot spend time here fishing.

By Mr. SIMPSON:

Q. You stated that you did not know of the use of any money by Mr. Pomeroy in securing his election, or attempted election, to the Senate?

A. That is what I say.

Q. Do you know of the use of money by Mr. Pomeroy in securing the election of certain members of the legislature?

A. I do not.

The CHAIRMAN. That is not cross-examination, but new matter belonging to the prosecution, and should have been elicited in chief from the witnesses called by the prosecution.

By Mr. SIMPSON:

Q. Were you present at Topeka when Mr. Eldridge offered to bet a thousand-dollar draft on the election of Mr. Pomeroy?

A. I was present when there was some joking conversation between him and his brother out of which that charge was made, but I did not understand it to be a genuine offer to bet by any one.

Q. State the facts and circumstances in relation to it.

A. The facts were, that Colonel S. W. Eldridge, so called, who has been mentioned here as a violent opponent of Mr. Pomeroy, in a free social talk and banter that we were having in my room, says, "Perhaps some of you have got money to bet on Pomeroy," or something like that. I said, taking a slip of paper that was, as near as I can recollect, a sort of advertisement of some patent-medicine concern, out of my pocket, "Here is a thousand on his election," or words to that effect. Major Eldridge took a similar piece of paper out of his pocket and said the same thing, and several others said substantially the same, and then all seemed to be against the colonel and he subsided, and we had a hearty laugh over it, and that was all there was of it.

Q. When was that?

A. That was, I think, on the Monday evening preceding the vote on Tuesday. I am certain it was as late as that.

Q. Why are you certain it was as late as that?

A. Because Mr. Ed. Eldridge came up with me from Lawrence; he had not been there before, and was in my room at the time. He had not been there any day before that; it might have been the day of the vote, too; but it must have been as late as Monday evening.

Q. Were you in Topeka Sunday and Saturday previous to that time?
A. I was in Lawrence previous to that time, and came up that Monday.
Q. When did you go down to Lawrence?
A. I went down to Lawrence, I think, on Sunday morning, at three o'clock, or thereabouts.
Q. Did you ever state to Mr. Pomeroy this conversation you had with Mr. Horton, in the Eldridge House, at Lawrence, in reference to the statement he made there?
A. I might, and I might not.
Q. Did you have a conversation with Mr. Pomeroy on the morning of the session of the joint convention in reference to some expositions going to be made there that day?
A. I did.
Q. State what that conversation was.
A. I stated to him that a gentleman had just informed me that some persons would make an *exposé* of him, of his having used money during the canvass improperly, and asked him if it was possible that there was any foundation for such a statement, or any danger liable to happen to us on that day from that source, and he assured me there was no foundation for it, and could be no danger ahead of us from that source.
Q. Where was that conversation?
A. That was in Mr. Pomeroy's private room.
Q. At the Tefft House?
A. At the Tefft House.
Q. What time in the day was that conversation?
A. I was on my way to the convention or the meeting of the legislature; I had my overcoat on, and was on my way before it was time for the house to meet.
Q. What time did the house meet that morning?
A. If I could have recollected that exactly I would have answered before; I think it was ten o'clock. If so, this conversation with him was about half past nine.
Q. This conversation was before the meeting of the house on the day of the joint convention?
A. Yes, sir, just before.
Q. How long was it before the assembling of the joint convention?
The CHAIRMAN. That was 12 o'clock; we have had that already.

By Mr. SIMPSON:

Q. How far is it from the Tefft House to the capitol?
The CHAIRMAN. That has been proven half a dozen times.

WASHINGTON, D. C., *Tuesday*, 25, 1873.

ASA HAIRGROVE sworn and examined.

By Mr. HORTON:

Question. What is your name, age, and residence?
Answer. My age is 46 years—about 46; my residence, Independence, Kansas.
Q. State if you know Mr. York.
A. I do.
Q. How long have you known him?
A. About one year.

Mr. HORTON. I call the attention of the committee to page 15 of the printed testimony, towards the close of the page. Mr. York states that he was invited by Mr. Hairgrove to have a business interview with Mr. Pomeroy, &c. [To the witness.] What public position have you held in the State of Kansas?

A. At one time I held the office of auditor of the State.

Q. How long have you resided in the State of Kansas?

A. About sixteen years.

Q. State if you were at Topeka during the senatorial election.

A. I was there during a portion of the time—about seven or eight days—seven days or eight days probably.

Q. State if you invited Mr. York to have a business interview with Mr. Pomeroy on Monday night, the 27th of January.

A. I did not.

Q. State if you invited Mr. York to have a business interview with him on Sunday, and gave him the invitation on the Saturday previous.

A. I did not.

Q. State if you know Mr. John Q. Page, of Independence.

A. I do.

Q. What is his business?

A. A banker.

Q. Have you held any local position down there recently in Independence?

A. I was appointed last April, I think, or May—perhaps the 1st of May—city assessor of the city of Independence.

Q. Do you know the financial standing of Mr. Page there?

A. I do only by the report he gave to me as assessor of the city.

Q. What is his financial standing?

A. He represented, I think, twenty thousand dollars of five-twenty Government bonds, and, I think, about four or five thousand dollars of other personal property, such as mortgages, &c.

Q. Is he, for that country, a man of means and wealth?

A. Yes, sir.

Q. Considered so for that country?

A. Yes, sir.

Q. Was he at Topeka during the senatorial election, or a portion of the time?

A. He was.

Q. State whether or not he was a friend of Mr. Pomeroy.

A. He was both at Independence and at Topeka.

Q. Do you know anything about any promises or pledges made by Colonel York to benefit or aid Mr. Page?

A. Not of my personal knowledge.

By Mr. SIMPSON:

Q. When did you go to Topeka, Mr. Hairgrove?

A. I think that I got to Topeka on Wednesday. Let me see: I started from home on Tuesday night, and got to Topeka on Wednesday evening, a week before the election of United States Senator.

Q. At whose instance or request did you go to Topeka?

A. At my own volition; nobody requested me.

Q. Where did you stop at Topeka?

A. At the Tefft House, where I always stop.

Q. What room did you occupy?

A. At first, room 128, and second, the clerk in the hotel assigned me to room 127.

Q. Who paid your expenses at Topeka?
A. I do not know that anybody paid them. I sometimes pay my own bills, and sometimes go off and leave them unpaid.
Q. How did you do this time?
A. I went off and left them unpaid.
Q. Have you paid them since?
A. No, sir.
Q. You do not know whether your expenses have been paid or not?
A. I do not; I always stop with Mr. Smith.
Q. Who assigned you to a room there?
A. The clerk of the hotel.
Q. Did you have any conversation with the parties after you got there with reference to a room at the hotel?
A. No, sir.
Q. Which clerk was it—Mr. Williams?
A. It was the gentleman with the dark hair; not one of the Smiths.
Q. Dark hair and whiskers?
A. Yes, sir.
Q. Do you know his name?
A. No, sir. I think Williams was his name.
Q. Did you have any interviews with Colonel York during the time you were in Topeka with reference to the senatorial election?
A. Yes, sir; I did.
Q. How many?
A. I had two private interviews with him.
Q. Where were those private interviews?
A. The first one, I think, was on Thursday night, before the senatorial election, in the room occupied by either Milton Reynolds or Marsh Murdock; I think it is likely it was in Marsh Murdock's room. The rooms adjoin, and there was a communicating door, and there was a fire in it—in Murdock's room—and we sat there.
Q. What was that private interview with reference to?
A. It was in reference to the senatorial election.
Q. What was the conversation between you and Mr. York at that private interview in reference to the senatorial election?
A. I decline to state that, because the conversation that transpired between us was to be regarded as strictly private, and not to be made use of in any way, and I have so held it since.
Q. Was that the first interview you had with him?
A. Yes, sir.
Q. The first interview had with reference to the senatorial election?
A. Yes. sir.
Q. And that was a private interview?
A. Yes, sir.
Q. The understanding was that whatever was to be communicated was to be strictly confidential?
A. Yes, sir.
Q. And for that reason you decline to state what it was?
Q. Milton Reynolds was present, and, as gentlemen, we agreed that what statement passed there should be strictly confidential.
Q. Where was the second interview?
A. The second interview, which was private, was in room 125.
Q. The same room?
A. No, sir.
Q. Whose room was it?
A. I do not know whose it was.

Q. On what floor of the Tefft House?
A. That was the third floor, I think—the same floor my room was on.
Q. How did you come to occupy that room, 125?
A. Mr. York came to my room shortly after supper.
Q. On what day?
A. On Monday evening. He sat and talked in the room probably ten or fifteen minutes; there was quite a number of gentlemen in my room. He got up and walked out of my room, and soon after I went out and found him in the hall, near the head of the stairs. I commenced a conversation with Mr. York upon the subject of the senatorial election. I do not know what it was, just a general conversation; I do not know that there was anything special in that conversation—nothing that I now remember, and I don't remember whether he or I suggested getting a room and having a general talk. Anyhow, we tried the room No. 126, that was sometimes occupied by Mr. Eldridge, but Mr. Page was occupying it at that time, and we then went to the next door.
The CHAIRMAN. We do not want all those particulars.

By Mr. SIMPSON:

Q. State what took place at that interview—was that a private interview?
A. Yes, sir; I decline to state that.
Q. You decline to state anything that occurred at that interview?
A. Yes, sir.
Mr. YORK. Mr. Chairman——
Mr. SIMPSON. Sit down till I get through.
Mr. YORK. I was going to make a request, or rather to state that I would release Mr. Hairgrove from his pledge of confidence to me at that interview. I wish to state it publicly to the committee, and in his presence.

By Mr. SIMPSON:

Q. You state that this second interview was upon Monday night?
A. Monday night.
Q. The first was Thursday night?
A. Yes, sir.
Q. Between those two days, Thursday and Monday, did you see and converse with Colonel York?
A. Yes, sir; I met him frequently, and passed the usual compliments of friends.
Q. Between those days was anything said about an interview either with you or Mr. Pomeroy; either by you to Mr. York or by Mr. York to you?
A. No, sir; there was not; I may have invited Mr. York, as I did, to call upon Wednesday at my room.
Q. Then you did invite Mr. York to call upon Sunday at your room?
A. Yes, sir.
Q. When was that invitation extended to Colonel York?
A. I do not know; I think very likely on Saturday evening.
Q. Where was it?
A. I cannot state; I had met him somewhere in the Tefft House.
Q. What did you say to him?
A. I cannot recollect the precise words. I simply extended to him an invitation to call on me and the other friends from Independence, up at my room on Sunday.
Q. You have a distinct recollection of inviting Colonel York to call at

your room on Sunday. Was there anything said in that invitation with reference to having one more talk with him with reference to the senatorial matter?

A. I do not remember; It might have been. I do not remember, though, that he said anything of the kind.

Q. You do not remember where you met him?

A. No, sir.

Q. Or what you said to him?

A. Not more than what I have stated.

Q. No more than an invitation to call at your room?

A. Yes, sir.

Q. That was Saturday evening?

A. Yes, sir.

Q. Do you know what time?

A. I can't tell.

Q. Was it before or after supper?

A. I can't tell.

Q. Was it before or after dark?

A. I think it was after dark; likely.

Q. What makes you think it was after dark?

The CHAIRMAN. Do you think that is material, Mr. Simpson?

Mr. SIMPSON. Yes, sir; because Colonel York testified differently, and I want to test his recollection.

The CHAIRMAN. We have not the time to go into such details. If there is any material fact to be elicited you may go on, and we want to have it.

Mr. SIMPSON. I regard it as material, as it tests his recollection. (To the witness.) Did you have any further communication, except the one you have stated, with Mr. York between that Thursday evening and Monday evening?

A. None that was anyways private; I might have stood and talked with him one, or two, or three minutes in the hall, somewhere.

Q. Do you recollect anything that you said to him between those two times?

A. I recollect of asking Mr. York at one time, but whether before Thursday or not I cannot say positively, in relation to the affidavits that certain men had there.

Q. Anything about going to see Mr. Pomeroy?

A. No, sir; I do not remember of ever asking him.

Q. Did you ever invite Mr. York to have an interview with Mr. Pomeroy?

A. No, sir; I never did.

Q. You never had any such conversation with him?

A. I had a conversation with him where that question came up; that was Monday night.

Q. Did Mr. York call at your room Sunday?

A. He did, five or ten minutes, may be longer.

Q. Was anything said on Sunday, at the time he called at your room, with reference to an interview with Mr. Pomeroy?

A. I think there was not; I am almost positive there was not, because the room was full of gentlemen.

Q. That was not one of those private interviews?

A. I have not stated that I had any private interview on Sunday at all.

Q. Then it was not one of those private interviews you have referred to?

A. I have explained that only two private interviews occurred.

Q You state positively that you never said to Colonel York that Mr. Pomeroy desired him to call on business?

A. I do.

Q. Or that Mr. Pomeroy desired to have a private business interview with him?

A. Yes, sir; I do.

Q. Did you ever make any statement to Mr. York in reference to Mr. Pomeroy desiring to see him?

A. I did not.

Q. You never made any statement to him in reference to that?

A. No, sir; I told Mr. York at one time that if he desired an interview with Mr. Pomeroy I would arrange to have that interview brought about.

Q. What did Mr. York say?

A. He said he desired it.

Q. When was it?

A. That was Monday night.

Q. At what time on Monday night?

A. It was the interview in room 125.

Q. Now you can state what occurred between you and Colonel York at that interview on Monday night, in which you state now that you made the statement to Mr. York that if he desired an interview with Mr. Pomeroy you would arrange it. Will you state to the committee now all that occurred between you and Mr. York at that interview?

A. I have once declined to make a statement as to what transpired there, and I think that the obligations that are between us are of such a nature that I cannot make that statement in justice to myself or in justice to Mr. York. He might desire to release me and all that from ulterior motives.

By Mr. HORTON:

Q. Did it have any connection with Mr. Pomeroy?

A. There was a general conversation at that time in relation to Mr. Pomeroy, and in relation to supporting Mr. Pomeroy.

By the CHAIRMAN:

Q. You had an interview with Mr. York on Monday evening?

A. I did.

Q. If anything was said of Mr. Pomeroy wanting to have an interview with him, tell it.

A. There was not anything said there in reference to Mr. Pomeroy's wanting to have an interview at all at that time.

Q. You had told Mr. York that if he wanted to have an interview with Mr. Pomeroy you would arrange it?

A. I had.

Q. Were you authorized by Mr. Pomeroy to say that?

A. I was not.

Q. What did you say to Mr. York in reference to that? I do not want to go unnecessarily into matters which are not pertinent to this point to which you are called, but everything in reference to that we must have.

A. At the close of our general convesation in room 125——

Q. That was Monday evening?

A. Yes, sir; I asked Mr. York if he desired an interview, after having talked what we had, with Mr. Pomeroy, and he said he would like to have an interview with him. I then said to Mr. York, "I will go and see the Senator and see if he will consent to an interview." And

I went and saw the Senator, and the Senator and he consented that an interview should be had.

Q. Did you communicate that to Mr. York?

A. I did not communicate that to Mr. York. I went back to communicate it to him, but could not find him. Afterward I met Mr. York in the hall, and he said that he had seen the Senator himself.

Q. What time did you meet him in the hall?

A. It must have been toward 10 or 11 o'clock. I carried no timepiece, and there was no clock standing in the house, and I cannot tell the time. It might have been 10 o'clock or later, or not so late.

Q. Where did you look for Mr. York?

A. I went back to the hall in the vicinity of where I left him.

Q. Then did you not see Mr. York at all between the time when you went from him to Mr. Pomeroy and the time you met him when he said that he had seen Mr. Pomeroy?

A. I did not.

By Mr. VICKERS:

Q. How long after you left Mr. Pomeroy was it that you saw Mr. York?

A. It must have been two hours.

By the CHAIRMAN:

Q. In this conversation with Mr. York on Monday evening did you state to Mr. York anything that you had been authorized by Mr. Pomeroy to state to him?

A. I did not; nor did I even intimate anything of the kind.

Q. You did not intimate that you had been authorized to say anything?

A. No, sir.

By Mr. SIMPSON:

Q. You stated, if I understand you, that after a general conversation with Colonel York at that private interview on Monday evening you said to him, "Now do you want to see Mr. Pomeroy after you have heard these statements?"

A. I think so.

Q. Now what were these statements you made to Mr. York which induced you to ask Mr. York if, after he had heard these statements, he wanted to see Mr. Pomeroy?

A. I decline to give that general conversation.

The CHAIRMAN. That statement that the witness declines to give is not of much importance. If it had been introduced on your principal examination it could only become competent on your stating as counsel that you intended to connect Mr. Pomeroy with it; but mere conversation between Mr. York and this witness, unless you state that you intend to connect Mr. Pomeroy with it, would not be competent even in your evidence-in-chief, and is not now, unless you make that statement.

Mr. SIMPSON. This is the first I have ever heard of that conversation. This is developed on the cross-examination, and the witness refuses to state it. Mr. York says that this witness said to him that Mr. Pomeroy desired to have a private business interview with him. The witness now states that after he made certain general statements to Mr. York, he, the witness, asked York if he wanted to see Mr. Pomeroy.

The WITNESS. I did not say I made a general statement, but after general conversation.

The CHAIRMAN. I suppose Mr. York knows what the testimony is as well as the witness.

Mr. HORTON. I call the attention of the committee to the testimony of Mr. York. I asked Mr. York if Mr. Hairgrove used the words "business interview;" he answered "Yes, sir." I asked if he was as confident about that as any other statement he had made; he said "Yes." Now I introduce Mr. Hairgrove, and ask him simply whether he used the words "business interview" or "invitation" to Mr. York. I did not go into an extended examination of this witness.

The CHAIRMAN. But it is proper in cross-examination to prove anything that passed between this witness and Mr. Pomeroy. This witness said he would see Mr. Pomeroy, and did see him.

Mr. SIMPSON. My proposition is, this thing might have been the very thing that this witness said to Mr. York.

The CHAIRMAN. Ask him whether it was.

By Mr. SIMPSON:

Q. At any time before you asked Mr. York the question as to whether, after he had heard what you had said, he desired to see Mr. Pomeroy, did you say to him that Mr. Pomeroy desired to see him?

A. I did not.

Q. Or that Mr. Pomeroy would like to have an interview with him?

A. I did not; because Senator Pomeroy and I had never talked about Mr. York in our lives. I never mentioned his name to Mr. Pomeroy, nor Mr. Pomeroy to me.

Q. Did this interview between you and Mr. York pertain to the senatorial election, or to a business transaction?

A. It pertained to the senatorial election.

Q. Any business connected with it?

A. There was some business talk—business of my own.

Q. But the talk was about senatorial matters?

A. Yes, sir.

Q. I ask you again to state what that conversation was.

Mr. HORTON. I object, because the witness has just stated that he never had any talk with Mr. Pomeroy about Mr. York, or Mr. Pomeroy with him.

The CHAIRMAN. I think the testimony is not competent, and I would follow the general course and have this testimony all brought out, for this is not a jury, and the testimony might be taken and its competency decided afterward; but the witness has stated that it was his private business, and I think it would not be proper to make it public here.

By Mr. VICKERS:

Q. After Colonel York told you that he had seen Mr. Pomeroy, did he communicate to you that he had received any money or other consideration from Mr. Pomeroy?

A. He did not.

By the CHAIRMAN:

Q. I understand that this was quite early in the evening—before ten?

A. It might have been later than ten; I do not think it was.

By Mr. SIMPSON:

Q. Did you go to Mr. Pomeroy to make an arrangement for Colonel York to see him that evening?

A. I did. I met Mr. York immediately after he came down from room 125. He came down on the next floor, and I went to see Mr. Pomeroy and left him in the hall at the head of the stairs.

Q. You saw him again, within ten minutes after you came down stairs, in the hall of the Tefft House?

A. No, sir; I am certain I did not see him again that evening anywhere until somewhere about nine or ten o'clock—probably as late as ten. That is my recollection.

Q. What was the object of your visit to Topeka?

A. To assist Senator Pomeroy; to assist in getting Mr. York in the first place to support him.

Q. The object of your visit to Topeka was to assist in having Mr. York vote for Mr. Pomeroy?

A. Yes, sir; and other members. I was acquainted with a great many members.

Q. Had you anything promised in consideration of your services?

A. I had not; I never asked for anything from Senator Pomeroy or any one else.

Q. Had you been an applicant for the post-office at Independence?

A. I had not. I had not made an application to the Government or any of its agents, or Senators, or members of Congress, for any such position.

Q. Did you ever make a statement to Mr. York that if he, York, would support Mr. Pomeroy for Senator that you could get the post-office?

A. I decline to answer that, because this has connection with this same private transaction. If I answer that I will have to go on and follow it with an explanation that takes up the whole of that conversation.

By Mr. VICKERS:

Q. Have you any knowledge of any other and later interview between Colonel York and Mr. Pomeroy than the one of which you have spoken?

A. Not of my own personal knowledge.

By the CHAIRMAN:

Q. Does the reason why you are reluctant to give this private conversation of which you speak relate to yourself?

A. Yes; a portion to myself, and a portion to Colonel York.

By Mr. HORTON:

Q. Was the Masonic oath taken between you?

A. The Masonic pledge was taken between us to keep it secret.

The CHAIRMAN. If it affected Mr. Pomeroy in any way it would be competent. I do not see that it does in any possible contingency.

By Mr. HORTON:

Q. Did you have any authority from Mr. Pomeroy to make any promise or pledge of the kind?

A. None whatever.

WASHINGTON, *Tuesday, February* 25, 1873.

JOHN M. HOLMES sworn and examined.

By Mr. HORTON:

Question. Give your name, age, and residence.

Answer. John M. Holmes; 30 years old; I reside in Atchison County, Kansas.

Q. How long have you lived in Kansas?

A. Since 1865.

Q. State if you were at Topeka during the late senatorial election.

A. I was.

Q. Did you see Mr. York, who is sitting there to your right?

A. I did.

Q. State if immediately after the election, in your presence, in the city of Topeka, he made any statement in regard to a scheme or plot of his that had been in preparation for six months; if so, state the substance of that conversation.

Mr. HORTON. I call the attention of the committee to Mr. York's testimony near the bottom of page 20.

By the CHAIRMAN:

Q. State his words.

A. I did hear it.

By Mr. HORTON:

Q. Where was it?

A. In the Tefft House, at Topeka.

Q. State what was said by Mr. York. What occurred?

A. About 3 o'clock in the afternoon I was standing at the counter in the office, and Mr. York was standing at the other end with his side face to me. A gentleman came into the office and offered him his hand and said, "How are you, Colonel York?" They passed greetings, and he remarked to Mr. York that he was not looking well. Mr. York replied that he was not feeling very well; that he had been losing sleep, and was not feeling very well. Says he, "Colonel, you have created some excitement here." "Yes," he said, "there has been some excitement about the capitol recently." Says he, "What about this thing?"

By the CHAIRMAN:

Q. Who said "What about this thing?"

A. This gentleman that spoke to Mr. York. He is unknown to me. Says Mr. York, "The exposure of Mr. Pomeroy is but the consummation of the work of time. Six months before this I had resolved to defeat Mr. Pomeroy, let it cost what it might." He said, "We had set a trap," or "laid the plan," and I am not positive which words he used, "to catch Mr Pomeroy," and he said they had been successful and had defeated him thereby, and that he was satisfied with the result.

By Mr. HORTON:

Q. How long after the senatorial election was this?

A. That was the 29th of January, about 3 o'clock in the afternoon.

Q. Just after the senatorial election?

A. Yes, sir.

Q. You state that he said he had resolved to do this, cost what it would?

A. Yes, sir.

Q. He used those words?

A. Yes, sir.

Q. Are you positive that this man York, who sits upon your right, is the man who used that expression?

A. Yes, sir.

By the CHAIRMAN:

Q. How long have you known Mr. York?

A. I only met him at Topeka.

Q. When did you meet him first at Topeka?

A. I met him first on the Sunday before.
Q. The Sunday before the election?
A. Yes, sir.
Q. And this was the Thursday after the election?
A. Yes, sir; after the Sunday.
Q. Where did you meet him?
A. In the Tefft House at Topeka.
Q. Did you see him afterward anywhere else?
A. Yes, sir.
Q. Where?
A. On the floor of the senate.
Q. In his seat as a senator?
A. Yes, sir.
Q. Did you see him more than once?
A. Yes, sir.
Q. Did you hear him speak in the senate at all?
A. No, sir.
Q. Had you any conversation with him?
A. I had not.
Q. Did he know you?
A. If he did I was not aware of it.
Q. Where was this conversation between him and this gentleman?
A. In the Tefft House, Topeka.
Q. In what part of the house?
A. In the office; the first floor.
Q. How many were by?
A. There were, I presume, a dozen men.
Q. How near were any of them to you three?
A. About as near as you are to me now, (20 feet.)
Q. In what kind of voice was this spoken?
A. Rather an undertone.
Q. You do not know this gentleman?
A. No, sir; I do not.

By Mr. SIMPSON:

Q. Did you know any other person in the room at the time?
A. No, sir.
Q. Where did you say Colonel York was standing?
A. He was standing at the further end of the counter in the office.
Q. Near the door that goes out into the hall?
A. Yes, sir.
Q. Where were you standing?
A. I was standing just beyond the curve that is in the counter.
Q. How far distant from Colonel York?
A, Well, something like as near as I am to you now, (7 feet,) probably nearer.
Q. On what day of the week was this?
A. This was Wednesday.
Q. The 29th day of January?
A. Yes, sir.
Q. You are certain about that?
A. Yes, sir.
Q. It was after the election of United States Senator?
A. Yes, sir.
Q. How long after the election? The same day or next day?
A. The same day.

Q. Where did Mr. York come from? Did you see him enter?
A. Yes, sir. He entered from the front.
Q. The front door?
A. Yes, sir.
Q. Were there not a good many men in the office of the Tefft House at that time in the afternoon?
A. Yes, sir.
Q. Do you know at what time that joint convention adjourned?
A. At what hour?
Q. Yes.
A. I do not.
Q. Had you been on the joint convention?
A. No, sir.
Q. Had you been up at the State-house that day?
A. No, sir.
Q. Do you know whether at the time of this conversation the joint convention had adjourned?
A. No, sir.
Q. This conversation you heard occurred on the day of the joint convention?
A. No, sir.
Q. It did not?
A. It occurred the day after.
Q. Then it was not upon Wednesday?
A. Let me see; it was upon Thursday.
Q. Then was it upon the 29th day of January?
A. It was upon Thursday, the 30th, sir.
Q. Now, you say this conversation was upon Thursday, the 30th?
A. Yes, sir.

By the CHAIRMAN:

Q. What day did you go home?
A. I went home on Thursday.

By Mr. HORTON:

Q. Did I or Mr. Pomeroy see you before you wrote to us of this fact?

A. No, sir.

Q. After you wrote to us this fact we summoned you here?

A. Yes, sir.

Q. About the exact hour on Thursday you do not profess to be exact?

A. No, sir. I say about that time.

By the CHAIRMAN:

Q. How did you go home?

A. By rail.

By Mr. HORTON:

Q. By what road?

A. The Atchison, Topeka and Sante Fé Railroad.

Q. In the afternoon or morning?

A. In the afternoon at 5 o'clock.

Q. That was before going home that day?

A. Yes, sir.

Q. Was not the hotel thinned out very much on that day after the convention?

A. Yes, sir.

Q. What is the date of the letter you wrote to Mr. Pomeroy after this?

A. I do not remember the date.

Q. How long was it after you got home?

A. I should judge it was something like two weeks and a half or three weeks—something like that time

Q. What suggested to your mind to write this to Mr. Pomeroy?

A. That Mr. Pomeroy had asked for an investigation and had been granted it, and I had the knowledge of this fact, and I thought that it would be necessary for Mr. Pomeroy to know it.

Q. You wrote to Mr. Pomeroy after Mr. Pomeroy had asked for the investigation here?

A. Yes, sir.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

PERRY B. MAXSON sworn and examined.

By Mr. HORTON:

Q. State you name, age, and residence.

A. My name is P. B. Maxson; age, 45; my residence is properly Lyon County.

Q. Where are you transacting business, and what business?

A. I am located at Independence, Montgomery County, Kansas.

Q. What business are you engaged in?

A. Register of the United States land-office.

Q. Do you know Mr. York?

A. I do.

Q. How long have you known him?

A. A little over a year, I think; not far from a year from this time.

Q. State if, prior to Monday the 27th day of February, 1873, you had any conversation with him about supporting Mr. Pomeroy?

A. Eighteen hundred and seventy-three.

Q. Yes, sir.

A. I had.

Q. But before that, state what conversation you had with Mr. York about supporting Mr. Pomeroy?

A. I had some conversation with Mr. York after the general election last fall when he was elected to the State senate.

Q. What was the conversation?

A. It took place in the office.

Q. What was it?

A. The general fact of the senatorial campaign, and the probability of the different candidates' success, and among others Mr. Pomeroy; and Mr. York said like this, that he expected to vote—I don't know who for, but he calculated to vote for the man that was elected, and he did not think it would be Mr. Pomeroy.

Q. Did you have any other conversation with him after that at Topeka?

A. I had a little conversation with him at Topeka on Tuesday night after the first ballot, in the parlor of the Tefft House.

By the CHAIRMAN:

Q. At what time was that?

A. I should think it was about 5 o'clock; I am not definite, 4 or 5. I took no particular note of the time. It was in the afternoon after the adjournment of the house.

By Mr. HORTON:

Q. What did he then say?

A. This was the first and only conversation I had with him at Topeka. I asked Mr. York if it was true as I heard that he was going to vote for Mr. Pomeroy the next day in joint convention; to which he replied that he had sent in word to Mr. Pomeroy that he proposed to vote for him the next day in the joint convention.

Q. State if you had any conversation with him about the publication of papers there, or anything of that kind.

A. Mr. York said he did not approve of the publication of certain affidavits in circulation there, or they did not meet his approbation, or something of that kind.

By Mr. VICKERS:

Q. Were those affidavits against Mr. Pomeroy?

A. Yes, sir.

By Mr. HORTON:

Q. Do you know John Q. Page, of Independence?

A. I do.

Q. Did you have any conversation with Mr. Pomeroy about him?

A. I think I had some conversation with Mr. Pomeroy about Mr. Page before the meeting of the legislature.

The CHAIRMAN. How is that competent?

Mr. HORTON. I will connect it and show that it is very material directly.

Q. Before the election in the fall?

A. Yes, sir.

Q. What did you assure him about his standing?

A. I told Mr. Pomeroy that Mr. Page was a man of good standing and good repute in society in Independence—a banker there, and that the office had kept the temporary deposits with him for some time.

Q. A man of financial standing?

A. I so understood him. I never heard anything to the contrary.
Q. That is the statement you made to Mr. Pomeroy?
A. Yes, sir.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

JOHN Q. PAGE sworn and examined.

By Mr. HORTON:

Question. State your name, age, and place of residence.
Answer. I am 33 years of age. I live in Independence, Kansas. My name is John Q. Page.
Q. How long have you lived at Independence?
A. About 20 years.
Q. What is your business there?
A. I am a banker.
Q. How long have you carried on the banking business at Independence?
A. About two years.
Q. Is that banking business carried on in your own name?
A. It is.
Q. At about what time did you go to Topeka, at the time of the senatorial election?
A. I arrived there about 1 or 2 o'clock, I think, on the 21st day of January.
Q. State if you saw Mr. Pomeroy soon after being there?
A. Yes, sir.
Q. How long have you been acquainted with Mr. Pomeroy?
A. I think about a year and a half, probably.
Q. Have you met or seen him at Independence, Kansas?
A. I have.
Q. Did you have any conversation with Mr. Pomeroy about your delegation or yourself aiding his election there?
A. Yes, sir. I can go on and state the circumstances.
Q. I meant to ask whether anything was said about your going there to assist him.
A. Yes, sir. After I got my dinner on the 21st I went to Mr. Pomeroy's room, and saw Mr. Pomeroy. He took me into his private room and we had a conversation about my delegation, and I told him——
Q. First state if you had brought with you to Topeka any petition in regard to the question to members of your county, or any one of them?
A. I did.
Q. What petition?
A. A petition of the citizens of the city of Independence and the country around there, asking our delegation to support Mr. Pomeroy.
Q. How many names were on that petition?
A. I think about four hundred.
Q. Were they the prominent substantial men of that part of the country?
A. They were. I would rather go on and state.
Q. Go on and state what occurred.
A. I can state what transpired.
Q. State it.
A. I went into Mr. Pomeroy's room, and he asked me what I thought about my delegation. I told him I did not think Mr. York would support him, but that I thought Mr. Bell finally would; that I did not

know about Mr. Eldridge; that he lived in another district in the southern part of the county. He told me that Mr. Eldridge would support him. I told him that if any person could have an influence over Mr. York, probably I could, as we were personal friends; and I had this petition in my pocket with three or four hundred names, asking Mr. York to support him. I said I would see Mr. York, and try to induce him to support Mr. Pomeroy. I think, probably, on that same evening I saw Mr. York, and talked with him about it, and showed him that petition. He looked over the petition, and said there were many familiar names there of men of standing and responsibility on it; but he said he did not think he could support Mr. Pomeroy with all that. He intimated that it was a pretty strong inducement, but he did not think he could support him even with that inducement. He wanted to take the petition; I told him I would not let him have the petition, but he might have a copy of it if he wished it. That is about the conversation I had with Mr. York at that time.

Q. That was about how near the 21st of January?

A. I think it was that same afternoon.

Q. Are you the Mr. Page that Mr. York mentions as having invited him to or having gone with him to the room of Mr. Pomeroy early in the session?

A. Yes; I will come to that in a moment if you will let me pass right along.

Q. Just pass right along in your statement.

A. I afterwards saw Mr. York, I think probably the next day; I asked him if he could not go with me to see Mr. Pomeroy, and said that I thought Mr. Pomeroy could convince him that the charges—but first I will say he asked me what I wanted him to go there for. I told him I thought Mr. Pomeroy could convince him that the charges made against him were not true, and that I thought Mr. Pomeroy was the best man we could elect, and I would not have him go there to take any advantages with him at all. He said he did not like very much to go, because under such excitements as were prevailing in Topeka at that time it was very easy for friends to lose confidence in each other. I told him I would not ask him to go if anything of that kind would occur, but I would like to have him go up. He finally concluded—I think the next day, which was Thursday, probably——

The CHAIRMAN. Thursday of the week before the election?

A. Yes, sir—that he would go up there provided he could take an anti-Pomeroy man with him, for, he said, he might possibly be misrepresented. I told him he would not be so far as I was concerned. I went to see Mr. Pomeroy, and asked him if I could fetch Mr. York up there. I said I would like to have him talk with him and see if he could not induce him to support him. He said, "Yes." I said, "He wants to bring some of his anti-Pomeroy friends with him." Mr. Pomeroy said, "Well, he can bring just as many as he chooses." I told this to Mr. York, and he selected Mr. Peck, a gentleman who is a lawyer in our place, and then Mr. York and Mr. Peck and myself went up to Mr. Pomeroy's room, I think, probably, on Thursday evening.

The CHAIRMAN. Nothing of importance transpired there. I think we have the testimony on that. A number of persons were in conversation there.

The WITNESS. Mr. York, in his testimony, has delineated it just about as it occurred there, I think.

By Mr. HORTON:

Q. Were you a candidate for senator before the same convention at which Mr. York was nominated prior to that time?

A. I was a candidate before the people, but when the convention came to meet I saw that Mr. York had the advantage of me, and I was not a candidate before the convention.

Q. After that convention, state whether or no he said anything about aiding, supporting, or benefiting you, and, if so, in whose presence?

A. He told me, if I would support him in the election, that anything I might ask that was within his power, he would bestow upon me in Southern Kansas; any position or office that he could procure me, he would do so with pleasure, in preference to any other man.

Q. You were living in the same town with him?

A. Yes, sir.

Q. Did you make any statement to Mr. Pomeroy about your personal intimacy or friendship with Mr. York?

A. I did.

Q. Was that soon after reaching Topeka?

A. Yes, sir; I think it was.

Q. State what occurred between you and Mr. Pomeroy in regard to starting a bank, or furnishing money to start a bank, at Independence.

A. I could not state the day that this conversation occurred, but it was several days before the senatorial election, and was in the presence of Mr. Shaw, a banker, at Paola, I think.

Q. What officer in a bank is he?

A. I think Mr. Shaw is the cashier of the First National Bank at Paola, Kansas.

Q. He was present at the conversation?

A. Yes, sir. I told Mr. Pomeroy I came here to assist him as much as I could; to lend him all the influence I had, and also to see if I could not make some arrangement to convert my bank into a national bank. Mr. Pomeroy told me that there was no money to be allotted to the State of Kansas at that time, as it was all taken up; and he remarked that the German Savings-Bank, of Leavenworth, had made application for $50,000 currency, and the time had expired and he thought he could get me that money. Mr. Shaw also remarked that a bank at La Cygne, I think, in the State of Kansas, had made application and had failed to take the money. Mr. Pomeroy remarked in that connection, that out of the two, he thought, certainly, he could get me the money—the currency. I told him that I would be unable to start a bank of that kind myself. He said it would take five stockholders. I told him I thought I could easily raise $25,000. He said that I would have to get $31,000 in bonds to start with, and that that would get me about $27,500 in currency; and I told him that the difference between the $31,000 and the $25,000 I would have to get some friend to assist me with. He said he would do so. He told me he had helped a great many young men in Kansas, and was willing to help me. He said I came well recommended by Mr. Maxsom and Mr. Reynolds. I told him I would give him any security he might require. He said he did not require any.

Q. Did he state in that connection that he had made inquiry or investigation as to your financial standing or ability, about starting a bank, and your personal responsibility?

A. Yes, sir; he told me that.

Q. State what occurred.

A. I think he told me he had inquired of parties at Independence,

and he said he did not wish any security. He told me he had not the money there at the time to let me have it; but he probably would get it before the senatorial election, and if he did he would let me have it. He also remarked in that connection that after the senatorial election was over he would not have very much time to attend to business, as they were going to have a grand celebration after his election; because, he said, the ladies at that time were making preparations to have a celebration, I think, in Topeka; and that he could not attend to any business after the election was over, and what he did he must do beforehand, and if he did not get the money he would send it to me at Independence. On Monday I went and told Mr. Pomeroy I was going home.

Q. What Monday was this?

A. Monday previous to the election on Wednesday.

Q. On the Monday previous to the senatorial election?

A. Yes, sir.

Q. That would be the 27th of January?

A. Yes, sir; the 27th of January.

Q. State what occurred.

A. I went and told Mr. Pomeroy that I was going home; that I thought I would not stay there any longer, and he remarked that he would like to have me stay there; but he said if my business needed my personal attention I had better go; and if he got the money he would send it down. I told him he might send any money to me by Mr. Bell or Colonel York.

Q. Was Mr. Bell a member of the legislature from your place?

A. Yes, sir.

Q. On Monday you told Mr. Pomeroy if he got the money for you he could send it to you at Independence, either by Mr. Bell or Colonel York?

A. I did. He said he would do so.

Q. State if on that day you had any conversation with Mr. York.

A. I am not quite through with that statement.

Q. Go on and state what occurred.

A. I went down to the—I think it was probably in the afternoon: I know it was—I went down into the bar-room, or office, of the Tefft House, and I saw there Mr. Asa Hairgrove, who just testified here, and I communicated the fact that I was going home. He lives in the same town with me. I asked him when he was going. I do not remember, but I think he told me not until after the senatorial election. He insisted on my staying, persuaded me to stay. I cannot use his words, but it was just as any person would speak insisting on another staying: he entreated me to stay. I finally concluded to stay and staid. That was toward evening.

Q. On that day, before that time, did you have any conversation with Mr. York?

A. On that day I told Mr. York in the Tefft House that probably Mr. Pomeroy would hand him a package of money to bring down to me, and if he did I wished him to bring it down, and he said he would do so. That was all of that conversation.

By Mr. BUCKINGHAM:

Q. Was this on Monday?

A. Yes, sir; on Monday.

By Mr. HORTON:

Q. How long do you say you resided in Independence?

A. Well, sir, I came there in April, I think, or March, 1871.

Q. State how long Mr. York had been there.

A. I do not think Mr. York was there at the time I came; I think he came afterward; I think Mr. York came after I came in the spring, or in the latter part of the winter; I came in the spring and he came a few months later; but some of his friends were there previous to my coming, or about the time and previous to my coming.

Q. You are financially a responsible man for $7,000, are you?

A. Well, I think I am, sir.

By Mr. VICKERS:

Q. How much money was Mr. Pomeroy to send you?

A. We spoke about eight or ten thousand dollars; there was no definite sum; I told him I could raise probably $25,000; he said it would take five stockholders; I told him I thought I could raise that much.

Q. How far do you reside from Topeka?

A. I think it is in the neighborhood of 200 miles. I do not know exactly.

By Mr. BUCKINGHAM:

Q. Did Mr. Pomeroy ever tell you that he sent the money to you for that purpose?

A. No, sir. From the time on Monday, after that evening, I do not think I saw Mr. Pomeroy to speak to him again until I met him in the city of Washington.

By Mr. HORTON:

Q. As soon as you saw him did he tell you this?

A. He told me he had sent it.

Q. That he had sent it to you?

A. That he had sent it to me, and he said that $7,000 was mine.

By the CHAIRMAN:

Q. What is that?

A. Mr. Pomeroy told me at Washington, the first thing when I met him, that that $7,000 was mine; that he gave it to Mr. York for me.

Q. When did you come to Washington?

A. I started from home on the 13th; I think that I arrived here on the 16th or 17th.

Mr. HORTON. I call the attention of the committee to the fact that Mr. Page was the first witness that Mr. Pomeroy sent for, as shown by the records of the Sergeant-at-Arms of the Senate.

The WITNESS. A train was wrecked on the road, and the train I was on was delayed. I believe I was four days coming, if I recollect.

By the CHAIRMAN:

Q. The first time you saw Mr. Pomeroy, from the time you had this conversation with him, was when you saw him after you arrived in Washington?

A. No, sir; I think I saw him, but not to speak with him before.

Q. But that was the first interview.

A. Yes, sir; the first conversation I had with Mr. Pomeroy, after that time, I had with him when I arrived in Washington.

Q. Had Mr. Pomeroy seen you in the mean time?

A. I do not know, sir, whether he had or not. After the balloting and the exposure on the floor of the house, I stood at the door and looked in, and Mr. Pomeroy was having some business with a crowd of men there. I had no particular business with him, and I went home.

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By Mr. HORTON:

Q. Did he leave the hotel immediately?

A. I understood he did. I did not see him. That was the report.

By Mr. BUCKINGHAM:

Q. Let me see if I understand you. You were desirous of establishing a bank?

A. Yes, sir.

Q. Mr. Pomeroy gave you to understand that he would aid you?

A. Yes, sir.

Q. To what amount?

A. There was no definite amount specified. I told him I could raise $25,000. He said he could assist me with the balance.

Q. Did he give you to understand that he would send you that money, and aid you in that way, by Mr. Hairgrove or Mr. York?

A. No, sir; he told me he could do it, and he said he would; he never intimated that he had.

Q. Had you reason to understand that he would, from anything that you learned from Mr. Bell or Colonel York?

A. I really had little expectation about it, because Mr. Pomeroy said he did not know whether he could get the money or not; and when Mr. York made that statement, I took it for granted that his statement was true, because he is a man that in our country is considered responsible.

Q. When you first met Mr. Pomeroy after that agreement, did he give you to understand, or say, that that was the money he had sent you?

A. Yes, sir; he told me so.

By Mr. HORTON:

Q. What was to be the capital of this bank?

A. Fifty thousand dollars. He told me I could buy $31,000 in bonds, and that would get me a specified amount of currency which, I think, was about $27,500, and the other $20,000 he told me I might take up as I could do it.

Q. Then the difference between the $25,000 and what the bonds would cost was the amount Mr. Pomeroy was to furnish?

A. That was what Mr. Pomeroy told me he would furnish. He also remarked to me in that connection, "There are some people I can have business transactions with and have it in writing and it comes out all wrong, and there are some people I can trust upon their word and it is all right."

Q. Do you know Mr. Maxsom, who is here?

A. I do.

Q. Was he a friend of yours?

A. Yes, sir.

Q. And Mr. Hairgrove?

A. Yes, sir; they were friends of mine, so far as I know.

By Mr. VICKERS:

Q. In a bank with a capital of $50,000, $5,000 had to be deposited with the Government in bonds, one-tenth, according to the law.

A. I really do not understand the ratio or rule in establishing a bank. Mr. Pomeroy told me, when I got my bonds, to come to Washington, and he would fix the whole matter up for me.

By Mr. SIMPSON:

Q. You have lived in Independence how long?

A. I think I have lived there since March or April, 1871.

Q. Where did you live previous to your removal to Independence?
A. In Missouri.
Q. In what part of Missouri?
A. In Lawrence County, at Mount Vernon.
Q. Did you ever live in Butler, in Bates County?
A. I never did, sir.
Q. What was your business in Mount Vernon, Lawrence County, Missouri?
A. I was district attorney, sir; I was practicing law.
Q. Prosecuting attorney for that circuit?
A. Yes, sir.
Q. When did you first get acquainted with Mr. Pomeroy?
A. I first got acquainted with Mr. Pomeroy when he came to Independence, I think in October or September, 1871, and made a speech in our town in reference to the location of the land-office there.
Q. In the fall of 1871?
A. I think it was.
Q. Was anything said at that time about business with him?
A. No, sir.
Q. Did you have any conversation with him in reference to it?
A. I had not. I was introduced to Mr. Pomeroy. I met him while he was there, the same as many of our citizens did.
Q. How long did you converse with him?
A. I met him in the parlor of the hotel.
Q. I ask how long did you converse with him?
A. I presume likely half an hour.
Q. Were there other parties there?
A, Yes, sir.
Q. Was it a private interview?
A. No, sir.
Q. Other parties were there?
A. Yes, sir.
Q. When did you next see Mr. Pomeroy?
A. I next saw Mr. Pomeroy in Topeka.
Q. At what date?
A. On the 21st day of January, 1873.
Q. The next time you saw Mr. Pomeroy was in Topeka, on the 21st day of January, 1873?
A. Yes, sir.
Q. Had you any correspondence with Mr. Pomeroy between the date of his visit, in the fall of 1871, and January, 1873.
A. Not particularly with Mr. Pomeroy.
Q. Had you any correspondence with Mr. Pomeroy on the subject of starting a bank prior to that time?
A. I had not.
Q. Had the project of establishing a national bank down at Independence been discussed by anybody prior to January, 1873?
A. It had. I had talked about it with Mr. Hairgrove and Mr. Parkhurst and Mr. Van Gundy. They had told me they would take stock.
Q. I asked you whether it had been discussed?
A. It had.
Q. When?
A. For five or six months.
Q. By whom?
A. By me and Mr. Hairgrove and several other citizens.
Q. Anybody else?

A. I think so.
Q. Who?
A. I think I talked with Mr. Parkhurst about it.
Q. Who else?
A. I talked with my cashier.
Q. Who is he?
A. W. E. Otis.
A. Anybody else?
A. I do not remember anybody now.
Q. You arrived in Topeka on the 21st of January?
A. Yes, sir.
Q. What did you go there for—to assist in the election?
A. To assist in the election of Mr. Pomeroy, or do what I could to influence our delegation to vote for him.
Q. When did you first converse with Mr. Pomeroy at Topeka in reference to the establishment of this national bank?
A. I think it was Wednesday or Thursday after I arrived. I arrived on Tuesday.
Q. The 21st?
A. Yes, sir.
Q. On Wednesday or Thursday after your arrival you had a conversation with Mr. Pomeroy in reference to this?
A. I had several conversations.
Q. How many?
A. I cannot remember. I talked with him whenever I got a favorable opportunity to do so.
Q. About this national bank business?
A. I say I talked with him whenever I got an opportunity. There was a great crowd there.
Q. How often was that?
A. I cannot tell you; at least two or three times.
Q. Was anybody present?
A. Yes, sir; at one time Mr. Shaw was present. He is here.
Q. Anybody else?
A. There were a good many; but I cannot recollect the names. I remember Mr. Shaw from the fact that he engaged in the conversation with us.
Q. Did you say anything to Mr. York or to Mr. Bell about the establishment of a national bank in Independence?
A. I do not think I did.
Q. You do not remember any conversation with them in reference to it?
A. No, sir.
Q. When was this conversation in which he agreed to take stock?
A. He never agreed to take stock.
Q. What did he agree to do?
A. To furnish the money—the difference between $25,000 and $31,000.
Q. He agreed to furnish you the difference between $25,000 and $31,000 in money.
A. Yes, sir.
Q. That was $6,000?
A. But the bonds are at an advance; they are worth about $12 on a hundred, premium, which would increase the amount to seven or eight or ten thousand dollars.
Q. You state that he agreed to furnish you in money the difference between $25,000 and $31,000?
A. No, sir; I do not state any such thing.

Q. Was not that your statement?

A. No, sir. I told you that he agreed to furnish me the difference between $25,000 and what would buy $31,000 of bonds.

Q. Is that your statement now?

A. Yes, sir.

Q. Did Mr. Pomeroy agree to furnish you money enough to make up the difference between $25,000 in money and $31,000 in bonds?

A. Yes, sir.

By Mr. HORTON:

Q. There was a premium on the bonds?

A. Yes, sir; I think twelve or thirteen dollars on the hundred.

By Mr. SIMPSON:

Q. On what day was that agreement made?

A. I cannot possibly tell you. He and I talked it over two or three times; I do not know how many times.

Q. But he never agreed to do that but once, did he? There was a time when he did make that agreement.

A. He never agreed to do it more than once, but we talked about the agreement probably afterwards.

Q. When was the final agreement made? There were negotiations prior to it, no doubt.

A. I think it was Thursday or Friday previous to the election on Wednesday.

Q. Thursday or Friday?

A. I am not positive.

Q. Previous to the election on Wednesday?

A. Yes, sir.

Q. Are you positive it was Thursday or Friday?

A. I am positive it was one of those days.

Q. Where was that agreement made?

A. In Mr. Pomeroy's room, at the Tefft House.

Q. In whose presence?

A. I do not think there was anybody present but Mr. Pomeroy and myself when that agreement was made; I do not remember anybody. There might have been somebody in the room.

Q. Then this interview in which Mr. Shaw was present was not the interview at which the final agreement was made?

A. No, sir.

Q. That was prior or subsequent to it?

A. It might have been a continuation of it. I can't remember as to that distinct conversation, or this agreement.

Q. You remember that Mr. Shaw was present?

A. Yes, sir.

Q. You stated upon your examination-in-chief what Mr. Shaw stated?

A. Yes, sir.

Q. Was that statement made by Mr. Shaw, and was he present at the time of the final agreement? You say no person but you and Mr. Pomeroy were present——

A. I did not say so.

Q. At the time of the final agreement, that you recollect of?

A. That will do; I do not recollect that he was present then.

Q. I ask whether this agreement at which Mr. Shaw was present was prior or subsequent to the final agreement?

A. I am under the impression that the agreement I made with Mr.

Pomeroy in reference to the money, when he was present, was either a continuance of the same conversation or afterward. I cannot just remember about that conversation.

Q. Was it at that interview and at that time that you told Mr. Pomeroy to give this money to either Mr. Bell or Colonel York?

A. No, sir.

Q. When was it you told him that?

A. I told him that on Monday.

Q. On the Monday prior to the election on Tuesday?

A. Yes, sir.

Q. Was there any person present when you told Mr. Pomeroy to give the money to Mr. York or Mr. Bell?

A. I think that a gentleman whom I understood to be his nephew, or the man that attended to Mr. Pomeroy's business, was in the room at the time.

Q. Anybody else?

A. Not that I remember.

Q. Mr. Shaw was present at that time?

A. I do not think that he was.

Q. That was not the interview when he was present?

A. No, sir.

Q. Was there anything else passed at that interview?

A. Nothing; only about my going home.

Q. You did not go home?

A. No, sir.

Q. At what time on Monday did you make that statement to Mr. Pomeroy?

A. In the afternoon.

Q. By what time did you expect to go home?

A. I expected to go home on the morning train. The conversation I had with Mr. Pomeroy was in the evening, about supper-time—after it began to get dusk. I told him I would go home in the morning. I believe the train left about 5 o'clock.

Q. The Kansas Pacific train?

A. Yes, sir.

Q. By way of Lawrence?

A. I was going to Kansas City from there. I went to Kansas City before I went home.

Q. So that this was Monday in the evening, about supper-time, that you notified Mr. Pomeroy that you were about to go home in the morning, and requested him to give the money to Colonel York or Mr. Bell?

A. Yes, sir.

Q. You did not go home?

A. No, sir.

Q. When did you leave Topeka?

A. On Thursday morning.

Q. At what time in the morning?

A. I cannot tell you what time that train leaves; it must be about 11 o'clock probably, or noon. I do not know the time it leaves; but about that time—it might have been a little earlier.

Q. From the time of that interview on Monday evening, about supper-time until you left Topeka, did you see Mr. Pomeroy again?

A. I think I did see him, sir.

Q. Did you have any conversation with him, sir?

A. I did not.

Q. You had no conversation with him, but only saw him?

A. No, sir.

Q. You did not go back to his room Tuesday, and tell him that you had decided not to go home?

A. I did not.

Q. Did you make any inquiries of Mr. York when he came down to Independence?

A. I did not.

Q. In reference to the money?

A. I did not.

Q. Did you make any inquiries of Mr. Bell, when he came down, in reference to the money?

A. I did not.

Q. Did you ever have any conversation with Mr. York or Mr. Bell in reference to the money subsequently?

A. I did not. I met Mr. York at Ottawa, Kansas; he was going down home, and so was I.

Q. You left Topeka on the noon train Thursday. When was that that you met him?

A. I think it was Saturday of the same week.

Q. Was anybody in company of Mr. York?

A. Well, sir, I do not know.

Q. Was Mr. Bell?

A. I do not think he was.

Q. Was Mr. George R. Peck, of Independence?

A. I will say this: I do not know whether Mr. Bell was on that train or not. If he was I did not see him. Mr. Peck, I think, was on the train; I am not positive. There was Judge DeLong of our place, and there were others.

Q. Did you see George R. Peck on that train?

A. I told you I did not remember; but it occurs to me that he came down on that train, though I did not see him.

Q. You did not have any conversation with him?

A. I do not think I did.

Q. You have no recollection of any conversation with George R. Peck, between Ottawa and Independence, on that train, on Saturday afternoon or evening?

A. If I did, I do not remember it.

Q. Do you know G. W. Burchard, of Independence?

A. I do.

Q. Was Mr. Burchard on that train?

A. He was.

Q. Did you have any conversation with him?

A. I spoke to Mr. Burchard, at the table, something about Mr. York's conduct. I do not remember what I said.

Q. At the table, where?

A. They stopped for dinner at a kind of restaurant.

Q. Where is that?

A. At Ottawa.

Q. You had a conversation with Mr. Burchard, at Ottawa, in reference to Mr. York's conduct?

A. I do not think there was much conversation; I made some remark to Mr. Burchard. I do not remember whether he replied to it or not.

Q. What remarks did you make to Mr. Burchard?

A. I could not tell you, to save my life.

Q. You could not state?

A. I spoke disparagingly of Mr. York; I can tell that much, but I do

not know what I said. I remember meeting Mr. Burchard at the table.

Q. Was Colonel J. C. Carpenter, of Neosho, on the train? Do you know him?

A. I know him.

Q. Was he on the train?

A. Well, I am at a loss to tell who was on the train, but it occurs to me that he was.

Q. Did you not have quite a long conversation with Colonel Carpenter, going down on Saturday, between Ottawa and Independence?

A. With Colonel Carpenter?

Q. Yes.

A. I do not think I had any conversation with him at all. I do not think that I spoke to the gentleman.

Q. You know him well?

A. I know him.

Q. You have known him for some time?

A. I never knew him until he was a candidate for governor, in November.

Q. You and he are on friendly terms?

A. I suppose so; I am.

Q. Why was it that you did not see Mr. Pomeroy again after Monday evening in reference to this matter?

A. Well, sir, I had no particular business with him, and there was an immense crowd of people there, and somebody had him all the time talking with him; and if a person got an interview with him, you had to get in and stand and wait your turn, or else crowd somebody back. I had no particular business with him, and did not crowd myself into his presence.

Q. Before that time you had no particular difficulty in getting an interview?

A. Yes, sir; many a time when I wanted an interview I had to wait at the door half an hour. Sometimes I would go away without an interview at all.

Q. Did Mr. Pomeroy make a positive promise to you to furnish you that money?

A. Yes, sir.

Q. Was anything said about security?

A. Yes, sir.

Q. What was said?

A. I told Mr. Pomeroy I had plenty of security that I could give him, and he said that he did not require any. The understanding between Mr. Pomeroy and me was that I was to have the money between sixty and ninety days—it was to be no long transaction—and then I was to return it; at least it was understood that I was to have it until we got the currency from the Government. I asked how long it would take; he said probably thirty days.

Q. What else did he say?

A. That is about all I know.

Q. How did you get this idea of sixty or ninety days, then?

A. I told him I would like to have a little longer time, because the currency might not be issued in the proper time.

Q. But he was to arrange all that himself, was he not, according to your statement?

A. Arrange which thing?

Q. Did you not state that you did not know anything about the details

of this banking business, or how it was to be arranged, and that Mr. Pomeroy had promised to fix it all up here in Washington?

A. I told Mr. Pomeroy I did not understand getting out the papers, or what I had to file in Washington to get the money, and Mr. Pomeroy said "I will fix that up."

Q. And he said that could be done in thirty days?

A. He did not.

Q. Did you not just now state that it would take about thirty days, as he said.

A. Not to fix up the thing, but he told me the currency would be issued in thirty days, probably; he did not say how long it would take to fix up the papers; it might have been an hour or three days—he did not say.

Q. Were you to execute a note to Mr. Pomeroy for this amount of money?

A. There was nothing said about the note. I told Mr. Pomeroy that I could give him any security he wanted. He said he did not want anything.

Q. Had you ever had any business transactions with Mr. Pomeroy before that time?

A. I had not.

Q. Did you inquire before you left Topeka, either of Mr. York or Mr. Bell, whether they had received the package of money?

A. No, sir; I looked for Mr. York, on the day of the joint convention, all over town and all over the State-house, and went to the meeting of the senate on the morning of the joint convention, and Mr. York was not in his seat; I went then to the Tefft House and inquired every place if I could find Mr. York, and I could not find him. I went to the senate and the senate met and had a short meeting, and Mr. York was not there. I looked all over the house, all over the capitol building and tried to find Mr. York, and never saw him until Monday, when he came on the floor of the house in the joint convention.

Q. Were you looking for Mr. York all this time to inquire about this money?

A. No, sir; I wanted to see Mr. York on business.

Q. Something else?

A. Yes, sir; I wanted to see him about something else.

Q. Where did you stay from Monday until you left Topeka—at what house?

A. I staid at the Capitol Hotel.

Q. Before that time you had been staying at the Tefft House?

A. No, sir.

Q. You had not stopped at the Tefft House?

A. No, sir.

Q. You staid at the same hotel all the time you were there?

A. I think the first night I arrived at Topeka I staid in the Tefft House, but they had no room, and I went from there to the Capitol Hotel.

Q. From Monday, after you had this business interview with Mr. Pomeroy on Thursday, you were at the same place you had been stopping at before that time?

A. Yes, sir; I stopped at the Capitol Hotel.

Q. Were you frequently at the Tefft House?

A. I think I was there probably every day.

Q. Were you there upon Tuesday?

A. I was.

Q. Were you there Wednesday?

A. I was.

Q. Did you make any attempt to see Mr. Pomeroy on Tuesday?

A. I was to the door of his room several times to see him. I could see him.

Q. If you were at the door of his room several times, were you not in the Tefft House that day?

A. Of course; I was in the Tefft House every day I was there.

Q. Were you there upon nearly every day?

A. I was there every day, from the 21st to the 29th day of January.

Q. Now, the agreement between you and Mr. Pomeroy was to the effect that as soon as he could get some money there he would let you have seven, eight, or nine or ten thousand dollars?

A. Yes, sir.

Q. The amount that you wanted?

A. Yes, sir.

Q. After he made that agreement, did you ever go to Mr. Pomeroy's room and see whether the money had arrived?

A. Yes, sir; I did.

Q. When was that?

A. I saw Mr. Pomeroy, I think, probably on Saturday, prior to the election on Wednesday, and asked him if he could furnish me the money, and he said he could not.

Q. This interview on Saturday was after the agreement was made?

A. Yes, sir.

Q. How long was it after the agreement was made before you went to Mr. Pomeroy and inquired if the money had come?

A. I stated a little hastily on that question. I do not think I asked Mr. Pomeroy if the money had come, but Mr. Pomeroy told me the money had not come. I do not believe I ever asked Mr. Pomeroy if the money had come—I recall that statement; but he advised me that the money had not come.

Q. When was this advice?

A. I think it was Saturday or Monday, when I was going home.

Q. What is your recollection; was it Saturday or Monday?

A. It may have been both; I do not remember. He might have told me both times.

Q. Did you not state, awhile ago, that this final agreement between you and Mr. Pomeroy was made either upon Friday or Saturday, and that you did not see him again till Monday, and that the object of your visit about five o'clock was to tell him that you were going away, and for him to leave the money with Mr. York or Mr. Bell?

A. No, sir; but——

Q. Now you state——

A. Let me answer that question before you go on.

Q. Very well, sir.

A. I told you that agreement was made Thursday or Friday—not Saturday. Now you can go ahead.

Q. You had an interview with Mr. Pomeroy after the agreement was made, before you had the interview on Monday evening, when you informed him that you were going away?

A. I think I did. Probably Saturday I saw Mr. Pomeroy.

Q. And Mr. Pomeroy then told you that the money had not come?

A. Yes, sir; I think he did.

Q. When did he say, at the time the agreement was made, that the money would be there?

A. He did not say. He did not know whether he could get it while he was in Topeka or not.

Q. Did you not state that he said he would have the money there before the day of the senatorial election?

A. I did not so state.

Q. You did not state that?

A. I did not.

Q. Did he make the statement at the time of your final agreement as to when the money would be there?

A. I asked him.

Q. What did he say?

A. Mr. Pomeroy did not tell me he would have any money there at all. He said, if the money did come he would let me have it.

Q. Did he say if the money did come?

A. He said he had no money there at the time; but if he got the money, which he thought he would——

Q. When?

A. He did not tell me.

Q. He did not say when?

A. No, sir.

Q. He did not say when he expected the money?

A. No, sir. He intimated as though he expected it before the senatorial election was closed, or that he would get it.

Q. Then he did say something about the time the money would come?

A. No, sir.

Q. Then how did he intimate that he would perhaps get the money before the senatorial election was over?

A. He said, "If I get the money I will let you have it."

Q. From that you drew the inference?

A. From that I drew the inference that he expected some money, or would have some money.

Q. That is the reason you made that statement?

A. What statement?

Q. The statement that if the money came before the senatorial election; or the statement that he intimated that the money would come before the senatorial election.

A. I said I drew an inference from what Mr. Pomeroy said, that he would possibly have money there before the election on Wednesday, and that he would let me have it; because he remarked, in that connection, that after the election they were going to have a banquet, or celebration of his election there; and he said, in that connection, that the ladies were making preparations then.

Q. And that he would have no time to attend to it then?

A. Yes, sir.

Q. Then after the final agreement was made, you had an interview with Mr. Pomeroy on Saturday?

A. I told you I thought I had. I cannot remember every interview I had.

Q. I am trying to have you remember, because this is an important transaction, and we want to know about these interviews.

A. Yes.

Q. Your recollection is, that you did have an interview with him on Saturday?

A. Yes, sir.

Q. And the next was on Monday?

A. Yes, sir.

Q. After that you did not see Mr. Pomeroy?

A. Yes, sir; I did.

Q. But to have any conversation in reference to this matter?

A. No, sir; I had no conversation with him in reference to that matter after Monday evening.

Q. Did you have any correspondence with Mr. Pomeroy in reference to this money?

A. No, sir.

Q. In reference to the money he agreed to let you have during the time after Saturday evening or Monday evening, which ever it was, until you saw Mr. Pomeroy in Washington?

A. I did not.

Q. You did not have any correspondence with him?

A. No, sir.

Q. You received no word from him?

A. No, sir.

Q. He did not notify you that he had let Colonel York have that money?

A. No, sir.

Q. You had addressed no letter of inquiry to him in reference to the money?

A. No, sir; because after Mr. Pomeroy was defeated it was a perfect shock upon his friends, and I supposed my prospects of assistance in the matter had failed. I made no inquiry of Mr. Pomeroy—anything at all about it. I did not suppose I could get his assistance.

Q. Had you made an application to any citizens of Independence to become directors in this national bank?

A. No persons to become directors; I had asked several of them to go in with me to start a national bank, or a savings bank under the laws of Kansas, and they informed me they would do so.

Q. What gentlemen did that?

A. Mr. Asa Hairgrove was one; Mr. Samuel Parkhurst, quite a wealthy gentleman in our place, said he would go in.

Q. These conversations were before you went to Topeka?

A. Yes, sir; I can state here, though it is not evidence at all, but I had been desirous of starting a national bank, and my clerk opposed it. from the fact that he said that, under the laws——

Q. You need not state the conversation between yourself and the clerk.

A. I will let the committee decide whether I shall state it or not.

Q. Do you know S. A. Cobb, of Wyandotte, Kansas, a member-elect of Kansas?

A. I do, sir.

Q. You know S. A. Cobb?

A. I do, sir.

Q. Did you see him upon the Wednesday of the joint convention?

A. I did, sir.

Q. Did you have any conversation with him?

A. I did, sir.

Q. In reference to this exposition made by Colonel York on the floor of the joint convention?

A. I did, sir.

Q. In the State-house at Topeka, just after Mr. York's exposition, did you, or did you not, state to Mr. S. A. Cobb, of Wyandotte, Kansas,

that you believed that the statement made by Colonel York on the floor of the joint convention was the truth?

A. I cannot tell you whether I stated that exact language or not. I told him that Mr. York was a man that stood well in my county; that I could not dispute his statements; that if Mr. Pomeroy had positively paid him $7,000 for his vote, that I was no longer for Mr. Pomeroy. That was before the convention adjourned. I did not stay in the convention until it adjourned; I went down to the Tefft House, and Mr. Pomeroy's friends assured me, I think Mr. Horton here was one of them who said, "Pass no verdict upon Senator Pomeroy, because he will explain everything to the satisfaction of his friends."

Q. Did it occur to you all this time that you had told Senator Pomeroy to give Colonel York this $7,000?

A. Yes, sir; it did.

Q. Did you make any statement of that to any person?

A. I never did, until I made it here.

Q. You did not make any explanation of that fact to any person who talked to you?

A. No, sir.

Q. Do you know George W. Burchard, of Independence?

A. Yes, sir.

Q. In a conversation with G. W. Burchard, of Independence, in the Tefft House, in Topeka, Wednesday evening, did you not state to Mr. Burchard that you believed every word Mr. York had said in reference to that matter?

A. I never told anybody on earth that.

Q. Or words to that effect?

A. No, sir.

Q. Was the substance of what you said that you believed that Mr. York told the truth?

A. That was a question upon the immediate revelation that Mr. York made there. I could not very well dispute it, because I would believe Mr. York upon all other subjects.

Q. Did you have a conversation with Mr. Burchard upon the train on Saturday afternoon, going from Ottawa south, to Independence, in which you stated substantially the same thing?

A. No, sir; I never did. Mr. Burchard is a man I did not have but very little conversation with.

Q. You state that you know Colonel Carpenter, of Neosho County?

A. I do.

Q. Did you have a conversation, a long conversation, with him, going down from Ottawa to Independence, on that same train?

A. I do not think I saw him on that train.

Q. In the course of that conversation with Colonel Carpenter, did you not state to him, substantially, that you believed every word that Mr. York had uttered on the floor of the joint convention?

A. No, sir; I never told any man that.

Q. Do you know James Scott, of Independence, Kansas?

A. I do, sir.

Q. Did you have any conversation with James Scott, of Independence, shortly after your arrival home, after you got back from Topeka, in reference to the statement made by Mr. York on the floor of the joint convention?

A. I do not think I ever did. I saw Mr. Scott nearly every day. I have made remarks several times that we were beaten, or played out,

or something of that kind. I do not think I ever made any such statement as you say.

Q. Did you not state, in a conversation with Mr. Scott, at the time I have designated, and in the city of Independence, that it was a great breach of confidence in Mr. York to expose Mr. Pomeroy as he did?

A. I think so, and probably said so. I do not know whether I said so or not. I believed it was.

Q. Did you or not make that statement?

A. I have stated that I believed it a villainy that was unparalleled in the history of this country; I do not know whether I stated it to those gentlemen or not, but I have stated it on several occasions.

Q. And all this time you were talking about want of confidence and villainy, it never occurred to you that this money that Mr. Pomeroy had agreed to let you have was the very money paid by him to Colonel York?

A. It did.

Q. But you made no statement of the kind?

A. No. I told several individuals I would make no statement of my evidence until I was called on the stand. I was tried to be interviewed at Cincinnati, and I would not submit to an interview. I knew I would be a witness.

Q. I am talking about the interview there in Independence.

A. I talked about that too.

Q. I am talking about a conversation you had with Mr. Scott shortly after you came back from Topeka.

A. I have answered that three or four times.

Q. I ask you generally, whether, in all these interviews, you mentioned this transaction or agreement with Mr. Pomeroy, by which you were to borrow $7,000 of Mr. Pomeroy, to be paid back in ninety days? I will ask you whether you were to pay Mr. Pomeroy back out of the issue to the national bank?

Mr. THURMAN. I understood the witness said that he had never mentioned that he was to get this money from Mr. Pomeroy to start a national bank.

The WITNESS. I did, sir.

By Mr. SIMPSON:

Q. I am asking as to the agreement now.

A. I was to pay that back.

Q. Were you to pay it back out of the issue to the national bank?

A. I was to pay it back in money; it was not specified whether from that issue or not.

By Mr. BUCKINGHAM:

Q. Was that a loan to you or a subscription for stock?

A. It was a loan to me for a short time, without interest.

By Mr. THURMAN:

Q. What security were you to give for it?

A. I was to give no security; Mr. Pomeroy did not exact any.

By Mr. HORTON:

Q. Did Mr. York stay at his general quarters on Tuesday at all?

A. He did not, sir.

Q. He had been at the Tefft House?

A. I say he did not stay; I was informed that he had left the Tefft House.

Q. Up to Tuesday he had been at the Tefft House all the while, and then he left?

A. I cannot say. I could not find him.

Q. They asked you about your statements made heretofore. The record shows that you were the first witness subpœnaed here, and I understand you to say that you refused to be interviewed on account of your knowledge about the matter?

A. I did, sir.

Q. From the commencement?

A. I did, sir.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

GEORGE T. ANTHONY recalled.

By Mr. HORTON:

Question. Are you a director of the German Savings Bank at Leavenworth, Kansas?

Answer. Not at this time.

Q. Were you in the summer of this last past year?

A. Yes, sir.

Q. State whether or no any currency was allotted to that bank by an arrangement made for it.

A. In April I was here, and went personally with Mr. Pomeroy to get the currency, or a permit for a hundred thousand dollars, and did get it, and took it back with me.

Q. Do you know whether or not afterward the bank declined entering into a national bank; and, if so, what was the reason?

A. We found we could not organize a national bank without deposing our present president.

Q. Why?

A. He was an alien, and a member of that sect which refuses to take an oath to support the Constitution because it does not recognize a God; and we could not make it a national bank, and have him remain as president, and so the idea was finally abandoned.

Q. Then the currency allotted to the German Savings Bank was never taken by them?

A. It was never taken by them.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

J. D. LIGGETT sworn and examined.

By Mr. HORTON:

Question. Give your name, and residence, and your former business.

Answer. J. D. Liggett; I reside at Leavenworth, Kansas.

Q. First, I will ask you are you now clerk of Mr. Pomeroy's committee?

A. I am.

Q. What was your business before that?

A. I was pastor of the First Congregational Church of Leavenworth for eleven years.

Q. In what State?

A. Kansas.

Q. Were you at Topeka during the senatorial election as a clerk of Mr. Pomeroy?

A. I was, sir.

Q. State whether you recollect Mr. Page, the gentleman who was on the stand, a banker from Independence, Kansas.

A. I do, sir; very well.

Q. How often did you see him, before the 27th of January, around the rooms of Mr. Pomeroy?

A. He was there very frequently; I cannot state how often.

Q. State if you occupied a room yourself with Mr. Pomeroy?

A. I did.

Q. What was your general business there; what was your time occupied with?

A. I was in the front room, or reception-room, and received friends when they came in, and entertained them and introduced them into Mr. Pomeroy's room when he was at leisure.

Q. Do you recollect a conversation, at any time, between Mr. Page, the banker, and Mr. Pomeroy, about a national bank?

A. I do, sir.

Q. State so much of that conversation as you recollect.

A. I heard Mr. Pomeroy say to Mr. Page that they would not grant a permit for a bank for less than $50,000; but that he could buy thirty bonds and get the currency on that amount, and pay the balance on time or whenever they could.

Q. Did you pay strict attention to all the conversation; were you paying close attention to it, or occupied by other matters?

A. Well, I heard him say that. I heard Mr. Pomeroy say, "I can get you the currency;" the currency that was allotted to two other banks; the Leavenworth bank had failed to organize, and another bank in the State; and that that currency could be obtained for the bank at Independence.

Q. Was that the John Q. Page who was present here this morning, as a witness, with whom that conversation was had?

A. It was the same man. This conversation was in the reception-room.

Q. You know nothing of it yourself, but did you hear about the pecuniary responsibility and high standing of Mr. Page?

A. That was all I heard; my attention was constantly called away by persons going out and in.

Q. Were you there during the entire senatorial canvass?

A. With the exception of two or three days.

Q. During that entire canvass state if you know of Mr. Pomeroy using any money, or other improper means, with members of the legislature to secure their votes.

A. I do not; I saw nothing of the kind. I heard nothing of it from Mr. Pomeroy, or any friend or person working in his interest during the whole of that time.

Q. Were you around there all the time?

A. All the time; day and night.

By Mr. SIMPSON:

Q. When was this conversation you have just repeated?

A. I cannot tell the date. It was during the week previous to the election.

Q. It was in the reception-room?

A. Yes, sir.

Q. Were many persons in the room?
A. There were several. It was in the morning, I think.
Q. Who else besides Mr. Page and Mr. Pomeroy were there?
A. I cannot name a person now.
Q. Did you hear any conversation about Mr. Pomeroy letting Mr. Page have money?
A. Nothing of the kind. It was a public conversation in the reception-room.

By Mr. HORTON:

Q. You do not know what other conversations they had?
A. I saw Mr. Page go out and in frequently.
Q. Into his private room?
A. Yes, sir; I introduced him several times.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

ROBERT MCBRATNEY sworn and examined.

By Mr. HORTON:

Question. Where do you reside; what is your age, and what is your business?

Answer. I reside at Junction City, in the State of Kansas; my age is over fifty, and my occupation that of a banker; at this time president of a national bank.

Q. Of what national bank are you now president?
A. The First National Bank, at Junction City, Kansas.
Q. Were you at Topeka during the senatorial election?
A. I was there a part of the time.
Q. What portion of the time were you present at Topeka?
A. I was there a few days before the convening of the legislature, and about ten days before the senatorial election.
Q. State if at any time you met at the rooms of Mr. Pomeroy a Mr. Page, and how he was introduced to you by Mr. Pomeroy.
A. There had been a meeting of bankers called to be held on the same day that the senatorial election was to be held, and I was delegated by our bank to attend that meeting. I met with several gentlemen who were connected with banks, and among others I met Mr. Shaw, of the Paola Bank, and in the room of Senator Pomeroy—his front room. I was introduced to Mr. Page as a gentleman who was about to go into the national banking business in Southern Kansas, at Independence.
Q. Was that the same Mr. Page who was on the stand this morning?
A. The same one. I talked with him several times afterward on the same subject. I recognized him as the same gentleman.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

F. M. SHAW, sworn and examined.

By Mr. HORTON:

Question. What is your name, age and residence?

Answer. My name is F. M. Shaw; age 34; residence, Paola, Kansas.

Q. State what your business is?

A. I am cashier of the First National Bank at Paola.

Q. How long have you been cashier of the First National Bank at Paola?

A. Since its organization. We started our bank on the 5th day of October, a year ago.

Q. Who assisted in starting that bank; who aided here in Washington?

A. Senator Pomeroy and Judge Lowe.

Q. State if you were present at Topeka during the pendency of the senatorial election in January?

A. I was there quite a number of times—a good part of the time.

Q. State about what time you were there?

A. I went from Topeka to Paola on the 15th of January, Wednesday, and returned home Thursday evening; went back the next Tuesday, which would be the 21st, and staid until Saturday night; went back the next Monday morning prior to the election, and staid until Thursday morning after the election.

Q. Are you acquainted with John Q. Page, a banker, at Independence, Kansas?

A. I am.

Q. Where did you see him at Topeka?

A. I met him in the reception-room of Senator Pomeroy.

Q. During any of the time you were at Topeka did you hear any conversation between him and Mr. Pomeroy in regard to starting a national bank?

A. I did.

Q. State what you heard.

A. Mr. Page asked Mr. Pomeroy if the quota for Kansas was absorbed; he told him it was, but there were two or three banks that had not filled, and that he could get him the currency for those banks.

Q. What banks were named?

A. He said the German Savings Bank, of Leavenworth. I spoke up, and said a charter had been granted to another bank, which had not been taken up.

Q. What further conversation was there, and how long did that conversation last?

A. I cannot state. Mr. Page spoke something about starting a bank; asked me how much it would take to start one. I told him no bank could start with less capital than $50,000; that there had to be thirty thousand put up.

Q. Thirty thousand of what?

A. Of United States bonds.

Q. In money?

A. Yes, sir; in money—bonds.

Q. Thirty bonds, or $30,000?

A. Thirty United States bonds of $1,000 each; and it was to be filed with the Treasurer of the United States. Upon that he would get $27,000 in currency, and then he could pay in according to the national banking act; he could pay in the balance of his subscription along as he could.

Q. What amount of money did Mr. Page state that he could raise?

A. I cannot state about that.

Q. Did he state?

A. I do not remember that he did.

Q. Did you hear all the conversation?

A. I do not know as I did.

Q. I mean this particular conversation. You were not present at all the conversations they had about it?

A. I know nothing about any other conversation.

Q. Do you recollect anything said in that conversation about $25,000 being all that he and his associates could raise?

A. I cannot swear positively to that now.

Q. What was the number of bonds required to be used with a $50,000 bank?

A. $30,000 in bonds.

By Mr. SIMPSON:

Q. When was this conversation?

A. It was the second time I was up there; some time between Tuesday and Saturday; the exact dates I cannot state.

By the CHAIRMAN:

Q. It was Tuesday or Saturday before the election?

A. Yes, sir.

By Mr. HORTON:

Q. Was it before the Monday?

A. It was the second time I went there. The first time I went there, Monday the 15th, I returned home Thursday; went back the next Tuesday, the week preceding the week of the senatorial election. I went home and spent Sunday and went back.

Q. It was before the last time you came back?

A. Yes, sir.

Q. It was before Monday, the 27th of January?

A. Yes, sir.

Q. That you say took place at Topeka, Kansas?

A. Yes, sir; in the reception-room of Senator Pomeroy.

WASHINGTON, *Tuesday, February* 25, 1873.

JOHN MCDONALD sworn and examined.

By Mr. HORTON.

Question. General, what is your name and what is your business?

Answer. John McDonald, supervisor of internal revenue.

Q. For what district?

A. Missouri, Kansas, Arkansas, Texas, Indian Territory, and New Mexico.

Q. State if at any time during the late senatorial election in Kansas you were personally present at Topeka?

A. I arrived at Topeka during the afternoon previous to the vote; I do not remember the date.

Q. How long did you remain there?

A. I remained there until Wednesday afternoon, at 5 o'clock.

Q. Do you know William H. Bond, a member of the legislature, from Leavenworth City?

A. I do, sir.

Q. State if at any time before Wednesday or before the joint convention he had made any statement to you of how he should vote for Senator?

A. He said he was there in the interest of Dr. Logan, of Leavenworth, and should vote for him, but in the event of Dr. Logan's withdrawal, that he would vote for Mr. Pomeroy.

Q. Did you communicate that statement to me before Wednesday?

A. Yes, sir.

By Mr. SIMPSON:

Q. Were you at Topeka taking part in this senatorial contest.

A. No, sir.

Q. What was your business at Topeka.

A. I was there officially.

Q. Did you urge the election of anybody for United States Senator while you were there?

A. No, sir.

Q. Did you have any conversation with Mr. Bond in reference to his vote for Senator?

A. Yes, sir.

Q. Was that officially or unofficially?

A. It was a matter of my own, sir.

Q. Did you urge the election of Mr. Pomeroy on Mr. Bond?

A. No, sir.

Q. State the conversation that you had with Mr. Bond in reference to his vote for Mr. Pomeroy.

A. I cannot do it. I talked to Mr. Bond several times in regard to his action in the senatorial election, and he told me on every occasion that he was going to vote for Dr. Logan. I asked who he would vote for in case Dr. Logan withdrew; he said he thought he would vote for Mr. Pomeroy.

Q. When was that?

A. I do not remember.

Q. Do you remember any occasion on which he said to you that he would vote for Mr. Pomeroy after Dr. Logan was out of the way?

A. No, sir; I do not. I was with him frequently while I was there.

Q. Where were you with him?

A. On the floor of the house, at the hotel, at the restaurant, on the street, and in the Tefft House.

Q. That is, five different places. Do you recollect that he made this statement to you at any one of those five places?

A. He may have done so at all of them; I do not remember.

Q. You do not remember when it was?

A. No, sir.

Q. Nor where it was?

A. No, sir.

Q. Nor what else he said in that connection?

A. No, sir.

By Mr. HORTON:

Q. General McDonald, do you know of any improper influence being used there during that canvass, to your knowledge?

A. Not at all, sir.

WASHINGTON, *Tuesday, February* 25, 1873.

JOHN A. JOYCE sworn and examined.

By Mr. HORTON:

Question. What is your name, your occupation, and residence?

Answer. John A. Joyce; residence, Saint Louis; I am a revenue agent in the internal-revenue service.

Q. Were you at Topeka at any time during the late senatorial election in the month of January?

A. I was in Topeka in the month of January. I arrived there the Saturday before the election for United States Senator—Saturday evening about 5 o'clock.

Q. Do you know William H. Bond, a member of the legislature from Leavenworth?

A. I do.

Q. How long have you been acquainted with him?

A. About two or three years—about three years I should think—somewhere near that long.

Q. Prior to Wednesday, the 29th of January, and the day of the joint convention for the election of Senator, state whether or no he had intimated to you or made any statement as to how he should vote for Senator.

A. I had some conversation with Mr. Bond relating to the senatorial question. He told me that his first choice was Dr. Logan, of Leavenworth, and that he should vote for him, but when he was out of the way he might vote for Mr. Pomeroy.

Q. Do you know of that being communicated to me before Wednesday by yourself or General McDonald?

A. No, sir; I have no knowledge personally of it.

Q. During the time you were there do you know of any improper influence or money being used by Mr. Pomeroy, or on his authority, to influence any member of the legislature?

A. I do not.

WASHINGTON, *Tuesday, February* 25, 1873.

CHESTER THOMAS sworn and examined.

By Mr. HORTON:

Question. Mr. Thomas, where do you reside, and what is your age?

Answer. I reside in Topeka; my age is 62.

Q. How many years have you lived in Topeka?

A. About ten years.

Q. In the State of Kansas, you mean.

A. In Kansas about fifteen years.

Q. Are you acquainted with Mr. Pomeroy?

A. I be.

Q. Are you acquainted with Benjamin F. Simpson, the private counsel of a witness here?

A. I am acquainted with Captain Simpson.

Q. State what conversation you had with him at Topeka and at Washington in regard to the senatorial canvass.

A. It was very little. The first week of the session of the legislature, during the week some time, I met him. I was well acquainted with him and spoke of the senatorial question. I think I spoke to him that his candidate or the candidate of the northern tier or eastern tier was not there—Mr. Lowe.

The CHAIRMAN. I do not see the relevancy of this, but if there is no objection on either side you can go on.

Mr. HORTON. It will be very brief.

Mr. SIMPSON. I have no objection.

The WITNESS. I met him there, and spoke—Mr. Lowe was not present—I spoke of Mr. Lowe being a prominent candidate against Mr. Pomeroy. I knew, or supposed, that Mr. Simpson was not a friend of Mr. Lowe, when he spoke barely that "we will not only defeat Mr. Lowe, but will defeat Mr. Pomeroy," and that is about all in relation to that that he said at that time.

Q. Did you have any other conversation with him?

A. I introduced him to some members there.

Q. Did you have a conversation with him in Washington?

A. I met him here, but I barely referred to that; I do not know who spoke of it first.

Q. What conversation occurred here?

A. I do not know but what I spoke to him about his prediction there, and spoke of the extraordinary measures being used. I think his language was more like this: He says, "Well, we could not afford to have Mr. Pomeroy elected; we had to defeat him some way; we were beat, and we had to do something," and he talked about it in that light; that was about all.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

W. E. GUERIN recalled.

By Mr. HORTON:

Question. Are you the chairman of the investigating committee at Topeka, Kansas?

Answer. I am.

Q. What is the official paper of Kansas?

A. The Commonwealth, I believe.

Q. (Submitting a newspaper.) Is that a copy of the Commonwealth?

A. I believe it is. I do not understand the daily to be an official paper.

Q. What other paper is there in Topeka? Is there any other daily paper in Topeka?

A. Not that I know of.

Q. The proceedings of your investigating committee are public, are they not?

A. Yes, sir; so far as reporters are concerned.

Q. The evidence that has been taken has been usually published in that paper, has it not?

A. Yes, sir.

Q. Do you recollect that T. B. Eldridge was a witness before your investigating committee?

A. Yes, sir.

Q. And testified at some length?

A. Yes, sir.

Q. Could you recollect exactly what he said, or the substance of it?

A. No, sir.

Mr. HORTON. I desire to call the attention of the committee to the fact that Mr. Eldridge is a very important witness; that this gentleman, Mr. Guerin, is the chairman of the investigating committee before whom Mr. Eldridge gave his testimony. Mr. Eldridge is expected here to-night, but I understand that the committee desire that the evidence shall be closed to-day. We have here a copy of Mr. Eldridge's testimony, as given before the committee and published in the paper sub-

mitted to the witness. If there is anything incorrect about it, Mr. Guerin, who, as the committee know, appears on the other side, could state in what particular it was not published correctly. I only ask that a copy of this evidence be received, unless the committee will say that if Mr. Eldridge arrives here his evidence can be given personally. But it has been published already; he has been examined at length by an investigating committee.

Mr. SIMPSON. I object to this proceeding. It is a most unheard-of proceeding. I have had no opportunity to cross-examine Mr. Eldridge.

The CHAIRMAN. We will reserve that question.

Mr. HORTON. I believe that concludes our evidence, excepting the evidence of Mr. Dolan, who is expected here, (but I do not care about waiting for that testimony,) and also the evidence of Mr. Eldridge, which I have just mentioned, and the evidence of Senator Pomeroy and of myself. As I have been connected with this matter I desire to go on the stand and make a statement.

Mr. CUSHING. I beg the favor of the committee to allow me to examine Mr. Horton.

The CHAIRMAN. Certainly.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

ALBERT H. HORTON sworn and examined.

By Mr. CUSHING:

Q. Mr. Horton, state, if you please, your name at length; your age, and present place of abode.

A. My name is Albert H. Horton; my age is 35; my place of abode is Atchison, Kansas.

Q. How many years have you resided in the State of Kansas?

A. I have resided there twelve or thirteen years—a little over that—fourteen years.

Q. During that period, what official stations have you held in the State of Kansas, either under the State or Federal Government.

A. I was city-attorney of the city of Atchison for the period of two years. I then held the position of district judge for a little over five years. I was then a candidate for election in the fall of 1868 upon the republican ticket and was elected. In May, 1869, I was appointed United States attorney for that district, and have held that position since that time, and am now the United States attorney for that district.

Q. Were you in Topeka during the session of the legislature at which the last senatorial election took place; and, if so, for what period?

A. I went there a few days, I think, prior to the meeting of the legislature, and remained there until after the senatorial election was over, leaving there the Saturday after the senatorial election—either Friday or Saturday; it was Saturday, I am sure, after the election.

Q. Had you or not, at that time, relations of political friendship with Senator Pomeroy?

A. I had. I was there to do what I could properly and legitimately to aid in his election.

Q. During that time at what hotel did you reside in Topeka?

A. I stopped at the Tefft House, in the city of Topeka.

Q. Have you a knowledge that during that canvass any act of bribery or other attempt at unlawful influence of any sort was exercised by Mr. Pomeroy, or any of his friends, with reference to that election?

A. I have not; and was distinctly informed by Mr. Pomeroy that he desired his re-election in this instance as a justification before the people of Kansas, on account of the calumnies that had been uttered against him, and that he would not use a dollar or a cent illegitimately or improperly to secure that result; that if he went back to the Senate—to use the very frequent expression he employed, taking up a piece of white paper—that he must go there as clean as that paper.

Q. Were your relations of political friendship to him, during that canvass, mere general relations, or were they special and particular?

A. Well, I was his friend, and I might say specially interested in that respect.

Q. Were you on such terms of personal intercourse with him during that time, and with such means of observation of persons around him, that if any corrupt influence had been used it would have been likely to have come under your observation?

A. I was.

Q. You heard the examination of the witness for the prosecution—Mr. Frank Bacon—whose testimony the committee will find on page 46 of the printed evidence. I now call your attention to the statement made by Mr. Bacon of alleged conversations with you. Please to state, in the first place, what occurred, and then if your answer does not exhaust the subject, I will put special questions to you.

A. I recollect very well the evidence of Mr. Bacon before this committee. I never saw Mr. Bacon but once before he testified upon the stand to my recollection. I may have seen him frequently in Topeka, but I mean that my attention was not attracted to him. One night—and the night that he named in his testimony here—about eleven or twelve o'clock at night, Mr. Rohrabacher came to me and said that a Mr. Bacon wanted to see me down-stairs. I went down to a room—I do not know its number—and this gentleman introduced himself to me as Mr. Bacon, or was introduced by Mr. Rohrabacher, I do not know now which. Mr. Rohrabacher went out, however. Mr. Bacon then said to me that he understood, or, his language was, that he came from a district, as I understood him, that was not a republican district, and hence he was under no obligations to vote for any person for Senator; that he wanted to say to me, frankly, that he wished to sell his vote, and if I would pay him two thousand dollars I could have it for any person I desired. He mentioned Mr. Pomeroy's name. I told him then that Mr. Pomeroy was not paying any money for anybody's vote. In reply he said, "I know that, but I understood you were connected with the Atchison, Topeka and Santa Fé Railroad, and I understood that they would pay money." I told him no money was being used for votes, and that Mr. Pomeroy had votes enough to elect him. I left the room. It was the last and only time I ever saw Mr. Bacon to my recollection. I was astonished and surprised at the interview he had with me. I did not know the man, and had never heard of or seen him before, except knowing, perhaps, that there was such a man a member of the legislature—I mean, to be introduced to him.

Q. Did you introduce yourself to him as the attorney of the Atchison, Topeka and Santa Fé Railroad?

A. I did not; he referred to that himself. When I said Mr. Pomeroy was not using money to secure his election, he said, "I know that, but I understand that you are connected with the Atchison, Topeka and Santa Fé Railroad, and that they are using money." I told him no money was being used in this election, and that Mr. Pomeroy had enough votes to elect him. The next morning some one—I do not know

whether it was Mr. Rohrabacher or not—came to me and told me that Mr. Bacon was in the room again and anxious to see me. I did not go, and did not see him, I do not know whether he was there or not; I was informed the next morning that he was.

Q. Did you say to Mr. Bacon that you would pay his expenses in case he would vote for Mr. Pomeroy?

A. I said no such thing. It was he that made the statement that his expenses were two thousand dollars. He made the bald and open proposition to sell his vote to me, and I indignantly refused it.

Q. Did you desire Mr. Rohrabacher to arrange for an interview between you and Mr. Bacon?

A. No, sir; I did not do anything about the matter. One other statement that I desire to contradict was this: Mr. Rohrabacher made a statement that I told him that I sent a message to Mr. Bacon upon the floor of the joint convention. That is untrue, because I had no conversation with Mr. Rohrabacher about Mr. Bacon in the joint convention at all or on the floor.

Mr. CUSHING. I refer, Mr. Chairman, to the testimony upon page 55 of Mr. Bond, on the last line, and following on the next page. (To the witness.) Mr. Horton, did an interview take place between you and Mr. Bond at your instance and request?

A. I will state that I had four different interviews with Mr. Bond during the time I was at Topeka. First was a day or two after I reached Topeka. I asked Mr. Bond to come to my room. In that conversation I told him I understood he was working for Mr. Logan, and that was all right, provided he made no personal matter against Mr. Pomeroy. He said that he was not making a personal fight against Mr. Pomeroy, but that he was a friend of Dr. Logan, and had to vote for him. That was in the first part of the canvass. The next conversation I had with Mr. Bond was on Tuesday afternoon, after the first vote had been cast in the legislature. Before that General McDonald had told me that Mr. Bond would vote for Mr. Pomeroy as soon as Dr. Logan was out of the way. Colonel Houston had always told me that as soon as Dr. Logan was out of the way, Mr. Bond would vote for Mr. Pomeroy. I considered the vote on Tuesday as a certainty that Dr. Logan was no longer a candidate, and that it showed he had not strength enough to be elected. Mr. Bond came to me at the head of the stairs, in the second story, and told me that now Dr. Logan was no longer a candidate; he would be no longer a candidate, and he would vote for Mr. Pomeroy. That was Tuesday afternoon after the first ballot, and the Tuesday before the joint convention. The next morning I saw Colonel Houston, and he told me he had seen Mr. Bond at his room, or coming from his room, at the hotel; that Mr. Bond was as much for Mr. Pomeroy as he had been the night before; and as I had heard he had been in the caucus, I desired to see him. I met him up-stairs, or found him there, and we went to a room. I asked him whether or no he attended the caucus last night. He said he did. Then I asked him whether he had signed any paper pledging his support to Mr. Ingalls or anybody else? He said he had not, and expected to vote for Mr. Pomeroy. That was the only conversation.

The last conversation was after the senatorial election was over, and was down in the bar-room of the Tefft House. It was a general conversation about the result and about offices and matters of that kind. Nothing was said about bribery or anything of the kind. I never said anything to him improper. I told him I thought of resigning the posi-

tion I held and uniting in a law partnership with another gentleman. I am positive that I never had any such conversation, as he relates, with Mr. Bond, because before that conversation occurred, as he states, I had positive knowledge from General McDonald and Colonel Houston that he would vote for Mr. Pomeroy. I did not think there was any question about it. More than that, if Mr. Bond is a man of character and manhood, if I had made any corrupt or improper offer to him, I suppose that would have been the last of our conversation. He, of course, would have resented it, if he had manhood and honor about him. Yet he testifies that a very friendly conversation after this occurred.

Q. In the last interview did you desire him to name an amount of money to be paid in consideration of his vote?

A. Nothing of the kind.

Q. And desire him to come to Mr. Pomeroy's room to receive it?

A. Nothing of the kind. I told him, concluding that he was going to vote with us, that it would benefit himself and his constituents; that the people of Leavenworth would be satisfied with Mr. Pomeroy.

Q. You heard, to-day, the testimony of Mr. Rohrabacher?

A. That was only in regard to his offer in the house.

Q. Please to state what the fact is in regard to that.

A. Well, sir, I gave him no authority to see Mr. Bacon. He kept running to me, and said Bacon wanted to sell his vote. That was before I had this meeting with Bacon, as I testified. I gave no authority. I say further, I had no authority from Mr. Pomeroy to use any money; had not any money of his to use; and had very little of my own at Topeka during the canvass. The records of the bank at Topeka will show that I drew two drafts, one for $25, and another for $41, for my own expenses. During the time I was there I received $320 salary from Washington, and I used a portion of that in my ordinary legitimate expenses. That is all the money I had.

Q. After the election, sir, at an early day, or on the same day, did Mr. Pomeroy say anything to you in regard to the statement made by Mr. York in joint convention?

A. I was in the joint convention from the time that it opened until after a vote had been taken refusing a recess. Up to that time I supposed there was no question but what there would be a recess. As soon as the recess was voted down I tried to get out of the room as quickly as I could. It was crowded, and it took me a few moments—not very long—to get out of the room. I went down to see Mr. Pomeroy, at his room, immediately, and commenced talking with him about the matter. I had not talked with him but a few moments until a messenger rushed up and said they were voting for Senator, and in a very short time they announced that a Senator had been elected. I then asked Mr. Pomeroy about the matter, and he told me that he had done no wrong or nothing improper had been done by him; that he would explain the matter, as quick as he had an opportunity, to me and to my friends. He was mortified and troubled by the fact that his friends had not stood up for him in the convention, and had not given him an opportunity to defend himself. He seemed utterly crushed down by the fact that nobody in the convention made a fight for him, so that he could make an explanation. In a very short time he went over to a private house, and I went with him. He then made a statement to me in substance as Mr. Page has stated to-day; that he had made an agreement with Mr, Page to furnish him money for a national bank; that the money had been paid to Mr. York for that purpose; and that Mr. York had abused his confidence and the confidence of Mr. Page. He supposed that Page, now

thinking he was going to lose the money, might go back on him, and he would have trouble; but if Mr. Page would stand up to the agreement there was no question that before the country and his friends he would be fully vindicated.

Q. Do you desire to say anything further to the committee in regard to either of the subjects of inquiry I have presented?

A. I believe not.

By Mr. VICKERS:

Q. When Mr. Bond came into the room did you lock the door?

A. No, sir; I am sure I did not.

Q. Did you sit down on a chair in front of him?

A. My impression is that neither of us sat down. It was on the second floor. I do not think the room was on the same floor as Dr. Logan's room. I think his evidence said we went out of Dr. Logan's room into an adjoining room. I think Dr. Logan occupied a room in the third story, or above the second floor; at least he came down with me to the second floor, into a room, and we had the conversation.

Q. Did you say to him in this conversation, substantially this: "I understand your condition; I know how you are fixed financially; you have had a great deal of trouble in your family; you have lost one of your children lately, and you are in need now; you have a family to support, and that is paramount to everything else, and I would advise you, as a friend, to take care of yourself?"

A. I used no such language, nor anything in substance like it. Indeed I know nothing about his family, except, I think, that during the holding of the court in Leavenworth he was a deputy marshal, and that Colonel Houston or some one told me a child of his died; but up to that time I did not know even that he was a married man. I do not know anything about his family; whether he has a wife or other children or not.

Q. Did you say to him that it was not worth while to mince matters?

A. Nothing of the kind.

By Mr. BUCKINGHAM:

Q. State a little more fully the conversation Mr. Pomeroy had with you after the election of Senator, with reference to the money which he paid to Mr. York for Mr. Page.

A. I asked him if that money had been given to Mr. York; he said that it had. Then I asked him for what purpose or reason, as I had never been told anything about it. He went on, then, and said that Mr. Page, of Independence, was a young man who had been on there all the while working for us, and I was acquainted with him; that he had received recommendations of him from Mr. Maxon and other parties; that he had made an arrangement with Mr. Page to send the money to him at Independence; that he was to send the money by Mr. York; that Mr. York had told him and told Colonel Eldridge and other parties on Saturday that, notwithstanding his being in the anti-Pomeroy caucus, he was going to vote for him, and he did not suppose that Mr. York would take advantage of any such thing as that; that it had never occurred to him, and he said that the money had been handed to Mr. York for the purpose of giving it to Mr. Page. I then asked him about the matter more fully, and he explained it in detail about like it was here; that a bank was to be started there; that it was for thirty bonds; that there was a premium on the bonds; that the bonds had to be obtained, and he was to furnish the amount of money necessary to help out in the purchase.

Q. Did he say what amount of money he was to put in the hands of Mr. York?

A. Yes, sir; seven thousand dollars.

By Mr. VICKERS:

Q. Did you say to Mr. Bond in this interview, "Now, just name your amount—what you want—and we will go down into Mr. Pomeroy's room and fix it up immediately," or any word of that import or effect?

A. I said nothing of that import or effect, and could not, because I had no more doubt of Mr. Bond's vote than that of any other member. All that I had an interview with him that morning for, was to satisfy myself that the statement of Mr. Houston that he had not signed an agreement to vote for anybody else was correct.

By Mr. BUCKINGHAM:

Q. One further question. How long after the election of Senator did this conversation take place between Mr. Pomeroy and you?

A. Immediately, sir.

Q. It was your first interview?

A. Yes, sir; after the convention. A portion of it was immediately, and in a few moments he went to a private house and I went with him, and then he told me the whole of it. A great many of his friends wanted him to deny having given the money to York, because, they said, nobody would believe York if he denied it; but he said, "I will tell the exact truth; Mr. York has taken the advantage and abused my confidence, but I cannot tell anything but what actually occurred;" and he made no denial of giving the money at all.

By Mr. VICKERS:

Q. Mr. Rohrabacker says——

A. He said I sent a message to Mr. Bacon in the joint convention. I say, further than this, that I went before his election committee in the interest of Judge Miller, a gentleman who succeeded Mr. Rohrabacher, and did what I could before that committee to have Mr. Rohrabacher ousted from the legislature. The election committee was all favorable to Mr. Pomeroy except one, Harry Field, and he was for Dr. Logan.

Mr. HORTON. I believe that closes our evidence, except, as I said, the evidence of Mr. Dolan and that of Mr. Eldridge, which I have offered, published as taken before the investigating committee in Kansas. The committee can see, by reading it, that it is very important, as it contradicts, directly and positively, Mr. York.

The CHAIRMAN. We will reserve that question; you say he is on his way here.

Mr. HORTON. The other witness we offer is Mr. Pomeroy himself. There have been some questions raised before the various committees as to whether a Senator should make a statement upon his honor or his oath. We do not desire to have any question about that. We have prepared a statement. Mr. Pomeroy is ready to swear to that statement, and when he completes the reading of it the chairman will administer the oath.

The CHAIRMAN. Of course he will be subject to cross-examination as a witness.

Mr. HORTON. We are aware of it; but we are not standing here upon any technicality or desire to avoid the fullest and fairest investigation. The cross-examination, however, should be confined to the subject-matter of his statement.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

Hon. SAMUEL C. POMEROY sworn and examined.

By Mr. HORTON:

Question. Mr. Pomeroy, have you yourself prepared this statement? (submitting a paper to the witness.)

Answer. I prepared every word of it.

Q. Is it in your own handwriting?

A. It is.

Q. Do you know everything that is contained in it?

A. I do.

Q. Is it signed here by your name?

A. It is.

Q. Is this statement in whole and as to each and every word true and correct?

A. True, so far as I know, every word.

The CHAIRMAN. Would it not be better to examine him in the usual way with the paper in your hand?

Mr. HORTON. The only question is as to saving time.

The CHAIRMAN. I think you had better proceed as with any other witness.

Mr. HORTON. I will ask him to state fully, and hand him the paper.

The WITNESS. Shall I read from this?

Mr. HORTON. I think it would not be improper for him to read, if I ask him to state fully all that he knows in regard to the charges against him. (To the witness.) State fully what you have to say in regard to these various charges that have been made and to the evidence offered.

A. (Reading the paper above submitted,) as follows:

Gentlemen of the committee:

I submit herewith a true statement of the facts as they relate to my action in the cases of bribery and corruption now pending before this committee.

It is a gratification to me that all the material facts are well established by competent testimony, so that very little is at issue upon my own individual statement.

And first, I deny that I gave at any time authority of permission to any man to use any money or other valuable thing to control or influence improperly the votes of any members of the legislature in the State of Kansas, and specifically deny that I ever gave such authority to the gentlemen named or designated by the witnesses upon this trial, to wit: Mr. A. H. Horton, C. A. Rohrabacher, J. S. York, J. T. Brown, J. J. Murphy, A. Low, or to either one of them. And, secondly, that while I never delegated such authority to others, I positively never exercised it in any instance myself.

Senator Simpson, from the neutral lands, often spoke to me of the condition of the settlers there, and as often I spoke of my desire to relieve them, not only by the passage of the bill pending before the Senate, but by every means in my power. When he spoke of a letter he had received from Mr. Laughlin, stating that his means of support in Washington had become reduced to "$2.50," and they had no means of continuing him here save by voluntary contribution, I told him I was a friend of those poor settlers, and would, in any event, contribute to his support. And soon after reaching Washington I met Mr. Laughlin, and although his friends did not support me, and did not promise me any support, still I did what I said I would, and gave him, as he testi-

fied, $50; and hence it is certain that my contribution had no relation to any man's vote, who represented those people, for I never even had the promise of a vote, or expected a vote from that locality.

And if one well-established fact of bribery, outside of the charge of Mr. York, has been proved by witnesses testifying either here or at Topeka, (where I have not pretended to have a man to defend or represent me,) I do not know it, and do not believe it.

And now as to the charge of this Mr. York, and his associate conspirators, I will say the true facts have been already stated by witnesses, and the transaction already seen to be a purely business one, having no relation whatever to *his vote* which, on several occasions, I had learned of his pledging to me. About the last of the week before the Tuesday set for the first ballot, Mr. T. B. Eldridge, W. W. Reynolds, Mr. De Long, and others, all from his own county, assured me with more or less positiveness of York's support.

But some days before I learned that, I had, after much deliberation, agreed to aid Mr. J. Q. Page and associates to start a national bank at Independence, where Page had a private bank, and having satisfied myself of his ability, capacity, and fitness for the management of such an institution, I agreed to furnish him with money sufficient, when put with his $25,000, would make a sum sufficient to purchase thirty United States bonds of the denomination of $1,000 each.

Mr. Page urged and was anxious to procure the money before he left Topeka, and I told him it was inconvenient for me to furnish over $2,000 then, but would get it soon, and he might depend upon it, and make his arrangements accordingly.

At this time I met at the Tefft House Mr. W. P. Boreland of Second National Bank of Leavenworth, who inquired of me if I should not need some currency before leaving Topeka, as he thought from appearances my hotel bills would be large. At first I told him no. The next day I met him, and said I should like to get $5,000, for forty or sixty days, as I had agreed to help a friend organize a national bank, and he would refund it as soon as he got his currency from the Government.

He then brought me a package, said to contain $5,000, which I never opened or counted, or even gave a note or receipt for at the time, and I put the same in my valise.

Upon Monday night, the 27th, Mr. York came to my room, having seen me or sent me word several times that he would do so, and at once began to report what had been going on at the anti-Pomeroy caucus, and I heard him through. Before leaving he spoke of the favor I had granted his friend Page, and said Page had requested him to get the money and forward it to him at Independence, and that he, York, should leave soon after the election for home.

I told him I was not prepared at that time to furnish it, although I had promised it to Page before I left the city. Mr. York spoke, said that perhaps I had no confidence in him. I assured him of my confidence and told him I could furnish $2,000, at that time, and thought I should be able to furnish $5,000 more the next day. The amount necessary I had calculated would be from $5,000 to $8,000 to pay for the bonds and their premium, in addition to the $25,000 Mr. Page and his associates could furnish.

I then paid him the first installment of $2,000, and the next day I paid the package of $5,000 just as I had received the same from Mr. Boreland, and neither gave Mr. Boreland or took a receipt. But during that day I had sent Mr. Knight, at one time, and Mr. Lemuel Pomeroy, at another time, to find Mr. Page if he had not left the city, to inform him

of the whole transaction. But these gentlemen both returned saying that they were unable to find Mr. Page, and I rested in the belief that the transaction was all right until I heard of the misrepresentation of the facts by Mr. York upon the floor of the joint convention. I then denounced it as a conspiracy, a plot, and told my counsel here, Judge Horton, the whole story, and within a few days left Kansas for Washington.

This, in brief, is the history of that *charge of bribery* for which I asked of the Senate a committee to investigate, and this *one act* (the transaction with Page and York) I now solemnly declare had no reference whatever to the vote of York, and was made and executed entirely independent of it.

I make this statement upon my honor as a Senator and upon my oath, and I further "specifically deny, as I stated in the Senate when I demanded this investigation, that I ever entered into any contract or agreement, directly or indirectly, with any man, a member of the Kansas legislature or not, for a vote in my favor, or that I ever, directly or indirectly, paid or promised to pay any individual one dollar, or any other sum, for his vote for me in the late senatorial election in Kansas."

S. C. POMEROY.

Mr. HORTON. We have concluded our direct examination.

The CHAIRMAN. Who is this Dolan mentioned there?

Mr. HORTON. He is a gentleman who wrote me a letter in regard to Mr. Bacon offering to sell his vote.

The CHAIRMAN. What was the name of the person this money came from?

Mr. HORTON. Mr. Boreland, a bank officer.

The CHAIRMAN, (after consultation with the committee.) We were considering the question of having the money here. We do not see that it is material unless there is somebody with it.

Mr. HORTON. There are marks upon the money which show that it could be traced anywhere. We desire to show, by exhibiting the money-packages themselves, that this money was given in an open, business-like manner, with marks by which it could easily be traced.

Mr. BUCKINGHAM. Can it be shown by marks on the packages?

Mr. HORTON. Yes, sir; by the marks.

The CHAIRMAN. Your point is, that the money itself shows that it was not given in a secret arrangement?

Mr. HORTON. Yes, sir.

Mr. THURMAN. Is there a controversy that Mr. York correctly describes the bank-marks on that money?

Mr. HORTON. There is not; but the marks show it much plainer than any description. By examining the brands or figures—everything about it—they will show that the packages came fresh from the bank.

Mr. THURMAN. I think, from the account of the money given by Mr. York, that it was obviously put up in packages, and marked as bank-tellers usually mark it when they count money, with one figure for the date and another for the amount. Could you prove anything more if you had the money itself?

Mr. HORTON. The very exhibition of the money would show that it was not a similar transaction; and there will be no objection to sending it as we are advised.

Mr. BUCKINGHAM. Has the large package of money been opened?

Mr. HORTON. Yes, sir; and resealed again. We do not desire that a

messenger be sent, but simply a telegram to the person now having the custody of it.

The CHAIRMAN. Mr. Simpson, proceed with the cross-examination of Mr. Pomeroy.

By Mr. SIMPSON:

Q. At what time did you pay Mr. York the $2,000?

A. Monday night, sir.

Q. At what time on Monday night?

A. It is impossible for me to state the hour; it was Monday night.

Q. Early in the evening or late?

A. I should think late, sir. I saw him two or three times during the evening.

Q. Was it the last time you saw him that you gave him the $2,000?

A. That is my impression.

Q. Where was that; where was this money delivered to Mr. York?

A. In my own room.

Q. In your private room?

A. It was in one of my rooms; yes, sir.

Q. Where was the other package of $5,000 delivered to Mr. York?

A. In Mr. Eldridge's room.

Q. At what time?

A. It was the next day, in the afternoon I should say.

Q. The next day in the afternoon?

A. Yes, sir.

Q. Had you met Mr. York in Mr. Eldridge's room before that time?

A. I think not. I do not remember to have ever met him there before.

Q. But this one time?

A. That is my recollection.

Q. Did you meet Colonel York at any other place except at your own room or at Mr. Eldridge's room upon Tuesday afternoon?

A. I cannot recollect.

Q. That is, by appointment, for the purpose of having a conversation?

A. Not that I know of.

Q. You have no recollection of so doing?

A. No, sir.

Q. Was there any one present, beside Mr. York and yourself, at either of those interviews in which you gave Mr. York money?

A. I am not certain that there was.

Q. Are you certain that there was not?

A. I am not certain either way.

Q. Have you any recollection now of any one being present at either of those interviews?

A. In my own room? I know that a Mr. Knight was about there, but I am not certain that he was present. I know he was at the door and came in and went out, but whether he was present I have not been able to learn, even from him.

Q. Was there any person in the room of Mr. Eldridge?

A. If there was it is unknown to me. I did not see any one.

Q. In your own room? What do you mean; that Mr. Knight came to the door and looked in?

A. He was in the room, and went out and came back. Whether he heard any of the conversation I do not know.

Q. Mr. Knight was in your own room at the time Mr. York came to your room?

A. Yes, sir.

Q. That was Monday night?

A. Yes, sir; Monday night.

Q. Mr. Knight left the room after Mr. York came to the room?

A. That is my recollection.

Q. Did he go into the parlor or into the reception-room?

A. Into the reception-room.

By Mr. THURMAN:

Q. Mr. Pomeroy, you say that on Monday night you gave to Mr. York $2,000. Where, at that time, were the $5,000?

A. They were in my valise; not in my trunk.

Q. Why did you not give him the $5,000 as well as the $2,000?

A. I had not it with me in the room at the time; and I intended to see Mr. Page the next morning.

Q. In what room was it that you gave Mr. York the $2,000?

A. In what they call my private room.

Q. Your reception-room?

A. No; back of that.

Q. Where was your valise that contained the $5,000?

A. It was in a closet, or in a place which I extemporized for a closet, behind my trunk.

Q. In the same room?

A. Yes, sir.

Q. Then why did you not give him the $5,000 at the same time that you gave him the $2,000?

A. For the reason that I wanted to see Mr. Page.

Q. Had Mr. Page told you, Mr. Pomeroy, you could give the money to Mr. York?

A. Yes, sir; he had told me I might send it to him by Mr. York; that he was going to leave town, and to send it by Mr. York or by Mr. Bell.

Q. When was it that Mr. Page told you to send the money by either of those gentlemen?

A. On Monday.

Q. In the forenoon?

A. In the forenoon; the same day.

Q. You say you did not give him the $5,000 because you expected to see Mr. Page the next day?

A. Yes, sir.

Q. You knew that Mr. Page had not left Topeka then?

A. I did not know whether he had or not. He had told me he thought he should go. I sent out for him Tuesday twice, to find out whether he had gone.

Q. As he had told you you might send the money by Mr. York, why did you hesitate to give Mr. York the whole $7,000?

A. For two reasons. First, I wanted to know if it was all right from Mr. Page; and then I had not the $5,000 accessible at that time.

Q. Did I not understand you that the $5,000 were in the same room?

A. Yes, sir; but in a valise. I kept money and private papers in a valise which Mr. Lemuel Pomeroy, my clerk, had the control of and key of; but the trunk I had the key of myself.

Q. You had not the key of the valise in which the $5,000 were?

A. No, sir; I had not.

Q. Where was Mr. Lemuel Pomeroy at that time?

A. He was in the reception-room, or abed. He was about the hotel.

Q. I understand you took no memorandum from Mr. York that you had delivered the money to him?

A. I did not.

Q. Was this a subscription to the stock of that bank?

A. No, sir.

Q. It was a loan?

A. It was a loan.

Q. Interest-bearing, or not?

A. I had made no particular arrangement; I told him I would help him to money enough, with what he had got, to buy thirty bonds. He was to settle with me after he got the currency here.

Q How long was he to have the money?

A. I think it was thirty or forty days. It generally takes thirty days, after putting the bonds in, to get the currency from the Department.

Q. Did you expect him to get authority to establish a national bank and get his currency, notes, and all issued in thirty days?

A. It has usually taken thirty or forty days. I do not know that I have ever known it to take longer than forty.

Q. Was that place entitled to a national bank?

A. It is a county-seat, a land-office, and entitled to a national bank, and they have not any.

Q. Under the law they are entitled to one?

A. Yes, sir.

Q. I understood Mr. Page to say that he was to have the money for forty or forty-five days without interest.

A. I did not say a word to him about interest, or he to me. I told him I would help him.

Q. You had no agreement that he was to have it without interest?

A. There was no such agreement. There was nothing said about it that I recollect at all.

Q. How long had you known Mr. Page?

A. I had known him perhaps a year and a half or two years. I had been down at Independence, and made his acquaintance there.

Q. Did you consider it entirely safe to loan him, without taking any obligation, receipt, check, or memorandum, as much as $7,000?

A. I did; because I was to be with him when he bought his bonds; to do the business for him here. I expected to have the security and things in my own hands in that regard.

Q. Meantime he would have the $7,000?

A. Yes, sir.

Q. Did you consider it entirely safe to deliver to Mr. York $7,000, without any memorandum, check, or note of any kind?

A. If I had been doing business in my office at home I would not have done it in that way.

Q. Mr. York was a comparative stranger in Kansas?

A. He had been there a year or so; was a senator, and, so far as I knew, sustained a good character.

Q. Is that your usual way of doing business?

A. No, sir; it is not a very usual way. I gave Mr. Boreland no receipt. It was about the close of an exciting canvass, where I hadn't time for——

Q. What day was it you got the money from Mr. Boreland?

A. I am not certain. It was the day Mr. McBratney was there; whether the Friday or Saturday before, I do not know.

Q. It was the latter part of the week before?

A. Yes, sir.

Q. Did you tell Mr. Boreland what you wanted it for?

A. Yes, sir; I told him I wanted it to help a friend start a national bank, and supposed it would be forty or sixty days before I could get it back.

Q. Was Mr. Boreland summoned here as a witness?

A. He was.

Q. By whom?

A. By the other side.

Q. Did you have a subpœna issued for him?

A. No, sir. I had one made out, but I found they had summoned him.

Q. Did you ever let Mr. Page have any other money?

A. Never.

Q. Did you ever say anything to Mr. Page about this money?

A. I wrote him a letter immediately after I reached Washington, which he says he did not get, and then I telegraphed him at once to come on here.

Q. Do you or not consider that inasmuch as he told you to give the money to Mr. York, and you did give the money to Mr. York, that Mr. Page is liable to you for the $7,000?

A. I do.

Q. Does he so understand it?

A. I think he does.

Q. Has Mr. Page claimed that money from the people who have it in Kansas?

A. I am not certain; I do not know.

Q. But it is his money?

A. It is his money.

Q. And he has a right to it?

A. He has a right to it.

Q. Was anybody with you when Mr. Page first spoke to you about establishing a national bank?

A. There were several with me; it was in my reception-room. It has been sworn to.

Q. Did he speak to you more than once?

A. Yes, sir; more than once, I should say a half a dozen times. He would sit in my room, and we talked about it from time to time.

Q. When did he first speak to you?

A. The first day he came there he spoke to me, and the second day we had a conversation.

Q. Who were his associates?

A. They were unknown to me. Mr. Maxson and Mr. DeLong recommended them to me.

Q. Nothing was said about the interest you were to have in the bank or on the money?

A. I was to have no interest in the bank.

Q. And nothing was said about the rate of interest on the money?

A. Not at all.

Q. Or whether he was to pay interest at all?

A. Nothing at all.

Q. At what place did Mr. Page live?

A. At Independence.

Q. How far is that from Atchison?

A. Independence is one of our southern towns; I should think two hundred or one hundred and fifty miles off.

Q. Had you known Mr. Page before that?
A. I had known him, but not intimately; only by reputation.
Q. Had he ever been in political life?
A. Not in Kansas.
Q. How long had he lived in Kansas?
A. He was one of the first proprietors in that town. The town was about two years old when I went there.
Q. He was one of the first proprietors of Independence?
A. Yes, sir. I do not know that he was the very first, but he was there with the first.
Q. Do you know how long he has been in Kansas?
A. He swore to it himself; I do not remember.
Q. Do you recollect where he came from?
A. From Missouri.
Q. About two or three years ago?
A. Yes, sir.
Q. Do you recollect to have ever seen him before you saw him at the time of the senatorial election?
A. I do, sir.
Q. Where?
A. At Independence.
Q. When?
A. When I lectured there and when I visited there.
Q. In what year was that?
A. That was in 1871; that was my first visit there.
Q. In what business was he then engaged?
A. Banker; a private bank; not a national one.

By Mr. VICKERS:

Q. How long had you known Mr. York?
A. I had known Mr. York a year and a half, perhaps. I do not know exactly the time, but something over a year.
Q. Were your relations with him, down to the time of meeting him at Topeka, friendly?
A. Yes, sir; so far as I know. I never knew anything to the contrary.

By Mr. HORTON:

Q. What was the financial standing of Mr. Page as given to you?
A. First class.
Q. As a man of wealth and means?
A. For that country he was; he would not be considered rich in New York.
Q. I understand; for that country?
A. Yes, sir.
Q. Was he one of the wealthiest men in that portion of the country?
A. That was my understanding, and he made his money himself.
Mr. HORTON. That closes our case with the exception that we desire the testimony of Mr. Dolan.
The CHAIRMAN. Proceed with the rebutting evidence.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

Hon. STEPHEN A. COBB sworn and examined.

By Mr. SIMPSON:

Question. State where you reside.

Answer. I reside at Wyandotte, Kansas.

Q. State if you are acquainted with John Q. Page, of Independence, Kansas?

A. I am.

Q. State, sir, if you had any conversation with John Q. Page, at the city of Topeka, on Wednesday, the 29th day of January last, in reference to a statement made by Colonel York, on the floor of the joint convention?

Mr. HORTON. That question was asked the witness Page. He said he had that conversation.

[The testimony of John Q. Page concerning his conversation with the witness was here read over.]

By Mr. SIMPSON:

Q. Did you have a conversation with John Q. Page, in the city of Topeka, on the day of the joint convention, in reference to the statement made on the floor of the joint convention by Mr. York?

A. I did.

Q. What did he say in relation to that statement?

A. I came up from the governor's room, where I had been sitting, just as Mr. Hutchinson, of Reno County, moved for a recess. I came up the private passage of the senators, and met Mr. H. C. Cross, I think, it of Emporia; I think I took his arm and walked with him across the senate chamber, to the western side of the Capitol near the broad staircase opposite the senate chamber, and there met Mr. Page. He and Mr. Cross, I knew, were friends of Mr. Pomeroy—I think this gentleman was Mr. Cross, though I may be mistaken in that—and remarked that Mr. York was the most infamous man that ever lived, or he had performed an act of unexampled heroism.

By Mr. THURMAN:

Q. Who made that remark?

A. I did to Mr. Cross, I think, in the presence of Mr. Page, and then turned to Mr. Page and said, "What do you think of it?" Mr. Page says, "I believe the statements of Colonel York; he is my neighbor; I have been the friend of Mr. Pomeroy, but I cannot disbelieve Mr. York. He is an honorable man, and a Christian gentleman." Upon that I asked him if he was a Christian. He said yes; a member of the Methodist Church. That was the substance of the conversation there.

Q. Did he say anything about starting a national bank?

A. Not a thing, sir.

By Mr. HORTON:

Q. You say that Mr. Cross was there?

A. I think it was Mr. H. C. Cross, of Emporia.

Q. A member of the legislature?

A. No, sir; president of the national bank at Emporia; a member also of the Lawrence convention.

Q. Were you at Topeka during the senatorial canvass opposing Mr. Pomeroy bitterly?

A. I was there opposing Mr. Pomeroy; not bitterly.

Q. Did you not make a public speech against him?

A. I did on many an occasion in Kansas.

Q. But during the senatorial election?

A. No, sir; I made a speech in an anti-Pomeroy caucus.

Q. You made that speech rather friendly to Mr. Pomeroy?

A. No, sir; but I did not do it bitterly.

Q. Did you not, as a member of Congress, say to many of the members of that legislature, or some of them, that if they favored Mr. Pomeroy they should receive no patronage if the members of Congress could prevent it?

A. No, sir; I think not; I say explicitly, as I stated, Judge Horton ——

Q. I am not speaking of a public speech; I am asking if you did not frequently say to members of the legislature that you and the other members of Congress were opposing Mr. Pomeroy, and if any member of the legislature voted for him that neither you nor any of the members of Congress would favor that member in the way of position or otherwise?

A. I do not know that I did, Judge Horton; I will say, however, that if it was the intention to purchase that member's vote, I said I would not favor him for office by such a promise.

Q. Did you not want to purchase votes against Mr. Pomeroy by saying that men who voted against Mr. Pomeroy should receive office?

A. I wanted to purchase no man's vote, and the question you put is insulting.

Q. Did you not use that insulting language to members of the legislature?

A. No, sir.

Q. You did not?

A. No, sir.

Q. You never stated to any members of the legislature there that if they should favor Mr. Pomeroy there, you would oppose their obtaining office?

A. No, sir; I did not make any such statement as that.

Q. Were you not violently and bitterly an opponent of Mr. Pomeroy, at Topeka?

A. No, sir.

Q. You were not? Did you not in the bar-rooms and hotel-rooms denounce him?

A. Very likely I did. Not violently, though.

Q. Not violently?

A. Not bitterly, violently.

Q. Did you not say to various members that you prayed to God to have mercy on any man's soul who supported Pomeroy?

A. I do not think I did.

Q. Nor any language of that kind?

A. I do not remember that I did. It is very unnatural language.

Mr. HORTON. Unnatural language to some men, perhaps, but I do not know that it is to you, Mr. Cobb.

By Mr. SIMPSON:

Q. Do you desire to state what you did say?

A. I desire to make this explanation about that. I desire to say that in a written speech that I made I used this language: "I believe in and shall work for a purer and better order of things in Kansas; and I here and now renew my pledge to the people of this State that no man shall receive my support or indorsement for any place of trust under the Government of the United States or elsewhere as a reward for his vote in electing any one to office in this State;" which pledge made there I renew here to-day and on all other occasions.

By Mr. HORTON:

Q. Is that the only statement made by you to members of the legislature in opposition to Mr. Pomeroy?

A. I do not know what I said in conversation. I say this was my deliberate statement in the meeting to which you refer.

WASHINGTON, D. C., *Tuesday, February* 25, 1873.

ALEXANDER M. YORK recalled.

By Mr. SIMPSON:

Question. State, Mr. York, if you had any conversation with Mr. J. Q. Page, of Independence, in relation to getting any money from Mr. Pomeroy or in relation to a bank.

Answer. I will state most emphatically that I never did, directly nor indirectly; that he never upon any occasion, either at Topeka or before or since, made the most indirect allusion to establishing a national bank at Independence, and I also state most emphatically that in none of the interviews that I had with Mr. Pomeroy was the matter of his paying me money for Mr. Page ever referred to in the most distant manner.

Q. Is there any other statement you desire to make?

A. No, sir.

By Mr. HORTON:

Q. Are you the same Mr. York who made the statement before?

A. I am, sir.

The CHAIRMAN. Does that close the testimony?

Mr. SIMPSON. Mr. Shaffer's testimony we thought might be received by the committee.

Mr. YORK. Mr. Shaffer stated that the nephew of Mr. Pomeroy offered $1,500 to come here and testify against me.

The CHAIRMAN. There has been no general testimony as to the character and general reputation of Mr. York for truth and veracity, and I do not see upon what principle this testimony would be admissible.

Mr. SIMPSON. If Mr. Eldridge is not to be put upon the witness-stand, we are through with our evidence.

The CHAIRMAN. With the reservation depending upon the adjudication of the committee on the statement as to producing the money and exhibiting it simply before the committee, we announce the evidence on either side closed. If the counsel upon either or both sides desire to present printed briefs they can be handed to the committee by Thursday.

At 5 o'clock and 15 minutes p. m. the committee adjourned.

To the special committee investigating charges against Senator Pomeroy:

By the courtesy of the committee a day is allowed counsel to prepare some considerations touching the inquiry submitted and the evidence that has been produced. If it manifestly appears from the evidence that Mr. Pomeroy is guilty of bribing, or attempting to bribe, a member of the legislature of the State of Kansas to vote for him as a candidate for the position of United States Senator, in the recent contest in that State—this crime having been committed while the Hon. S. C. Pomeroy was a Senator of the United States from the State of Kansas—then the duty of the Senate is plain, and the honor and good name of the highest legislative body of the nation invoke a prompt discharge of that duty.

Believing then that the power of the Senate to expel a member for an act committed during membership is clear and undoubted, because exercised in several instances, the only duty of counsel is to call attention to some considerations of fact developed by the testimony and detailed by the witnesses. Apologetically it may be said, in behalf of those who appear here in response to the process of the Senate to make good their charges against Senator Pomeroy, that an investigation into the conduct of that Senator was ordered by the legislature of the State of Kansas immediately after the senatorial election, and as soon as they testified there that they were compelled to appear here, and that neither here nor there was there sufficient time to fairly present all the testimony relating to the subject-matter of this inquiry.

This investigation is the result of the demand made in the Senate by Mr. Pomeroy. His emphatic denial and broad and sweeping assertion of innocence, and his charge that he was the victim of a conspiracy, are the proper inquiries here. York is not being tried. The conduct of Pomeroy, not York, is being investigated. It is immaterial whether York is a gentleman of high moral character or not. Did Pomeroy pay him for his vote? If he did, whether York is a saint or a villain is of no consequence. Honest men do not pay bribes to saints, conspirators, villains, or any one else. An attempt is made here to place York in the attitude of a prosecutor, but the real question is, whether S. C. Pomeroy, now a Senator of the United States from the State of Kansas, and recently seeking a re-election by the legislature of that State, is guilty of a corrupt use of money in his attempt to secure his re-election.

Mr. Pomeroy has taken upon himself the burden of showing that he is not guilty of the charges that have been preferred against him.

These charges are, first, that he corruptly paid York the sum of $7,000.

Second. That the confidential friends of Senator Pomeroy, to wit, A. H. Horton, Brown, Hoke, and Lowe, offered money to Bacon, Bond, and O'Driscoll, to influence their votes in favor of Mr. Pomeroy.

On the first proposition, Mr. Pomeroy, in his own statement, admits that he paid York the money at the times, places, and in the amounts as sworn to by York, the only difference being as to the purpose for which this money was paid. York states it was on account of a promise made by him to vote for Pomeroy. Pomeroy states that it was a loan to a friend of his, to be delivered by York to that friend.

The first payment was made at 1 o'clock in the morning of the day the first vote was to be taken for Senator, in the private room of Mr. Pomeroy. The second payment was made in the private rooms of Mr. Eldridge, a friend of Pomeroy, at 4 o'clock in the afternoon of Tuesday,

the day before the final vote for Senator. Why in Eldridge's private room? If it was an ordinary business transaction, why at midnight, in a private room? Why not give the money to Eldridge, who was a friend of Pomeroy's, and a member of the legislature from the same county in which Page resided? Why send currency to Page, when a draft, check, or a certificate of deposit could be so easily obtained? The purpose for which this money was paid by Pomeroy to York rests alone upon the testimony of York and Pomeroy, and, at this investigation, Mr. Pomeroy undertakes to prove to the Senate that he has done nothing that would tarnish the name of a Senator.

There may have been some talk in Pomeroy's reception room about the establishment of a national bank at Independence. If there was, the recollection of it at this juncture is the foundation for a theory of defense; but after all it is a slight foundation upon which to build a superstructure that will inclose the testimony of York and all the attending circumstances. Page, with all his fertility of mind, does not venture to affirm that he knows for what purpose this money was paid. His statements might authorize an inference, but the statements are not of that character that commend themselves to an unprejudiced mind. Pomeroy's friends never claimed that York would vote for him until after the payment of the $2,000.

The testimony of Mr. Pomeroy, and of Page, discloses a most remarkable business transaction. Without stopping to comment upon the time when this banking project was originated, the circumstances under which it was hatched into being, the senatorial surroundings of its baptism, we only call the attention of the committee to the confidence reposed by Pomeroy in Page. He had known him but a short time; had seen him but once before, and that only for a short time, at Independence; had no special conversation with him until his advent in Topeka, as an advocate of Pomeroy's re-election. Then, in gratitude to Page for what Page had failed to accomplish, to wit, the support of Pomeroy by York, he agrees to lend Page, for thirty or forty days, without interest, security, pledge, receipt, or voucher, the sum of $7,000. Is not this a remarkable business transaction? At the same time, does it not demonstrate the trusting and confiding nature of short friendships formed in the midst of a senatorial strife? Compare the testimony of Page and Pomeroy, and see the glaring inconsistencies. Pomeroy testifies that he procured from Borland, cashier of the Second National Bank of Leavenworth, the sum of $7,000, to lend to a friend, with which to purchase bonds to start a national bank. The cashier, with some propriety, might have suggested that New York exchange would have been better suited for the purpose, as the necessary United States bonds would probably have to be purchased at the East, and not in Kansas. But the banker furnished Mr. Pomeroy the money, and, according to Pomeroy's statement, he furnished it to him on Friday or Saturday of the week previous to its delivery to York, on Monday or Tuesday. Borland is not here; neither is he in Leavenworth, his home; he is conveniently absent, and cannot be served with process.

Page testifies that the final arrangement between himself and Pomeroy about the gratuitous loan was made on the Thursday or Friday of the week preceding the senatorial election, and that when it was consummated the agreement was that Pomeroy was to let him have the money some time prior to the senatorial election—Pomeroy having used language that conveyed that idea to the mind of Page. Page again saw Pomeroy on Saturday, and then again on Monday evening, after supper, at which

latter interview he (Page) told Pomeroy that he would leave Topeka the next morning, on the early train, and wanted to know of Pomeroy if he had the money. Pomeroy told him that the money had not yet arrived; and yet, according to Pomeroy's statement, the money had been received by him on the Friday or Saturday previous. Page then requested Pomeroy to give the money to York or Bell, when it did come, and they would bring it to him. Pomeroy states that Page called on him on Monday forenoon, and informed him that he (Page) would leave that day, and told him (Pomeroy) to give the money to York, and, possibly, he said, to Bell. On that same evening, notwithstanding the fact that Pomeroy had told Page that the money was not there, he paid York $2,000—paid him this amount within a few hours after Page had been to his room, and after he told Page that the money which had been there, according to his theory for several days, for the express purpose of delivery to Page, *was not there.*

Pomeroy states that, at the time he paid this sum of $2,000 to York, for Page, he thought Page had gone home; and in the same statement he declares that on Tuesday, the day following, before he paid York the $5,000, he sent two men out to see if they could find Page; and yet Page swears that during all this time he was in Topeka; had not gone home; tried to get into Pomeroy's rooms; had gone to the door, and must have been seen and noticed by Pomeroy's stationary sentinels.

Again, Mr. Pomeroy states that, in the interview he had with York on Monday night, among the first things that York had said to him was to thank him for the interest he (Pomeroy) had manifested in his friend Page, in helping him to establish a national bank. Now mark that. Page swears that he had never said anything to York *about the national bank;* that he had said to York that if Pomeroy gave him a package of money, to bring it to him. York called at Pomeroy's room several times on Monday night; called at a time when a number of Mr. Pomeroy's friends were there. If the only object was to obtain money for his friend, Page, why was the payment of the $2,000 postponed until after midnight—after the room was deserted and all had gone to bed—no witness, no receipt, no written acknowledgment, not a single, solitary, isolated fact to sustain a tottering fabrication. It is sometimes, but not often, possible for a shrewd and cunning man to swear to a falsehood without being detected on the spot; but when two men try to commit a joint perjury, (if we may be allowed the expression,) no amount of skill can save them from an ignominious exposure. Page and Pomeroy, in swearing to this wonderful banking transaction, contradict each other in several vital points. Pomeroy did not subpœna Borland, the all-important witness for him. He gave Borland no receipts. Bankers do not do business in that way. He gave York $2,000 the first night, but did not give him the other $5,000, though he had it all ready in his valise in the same room. Senator Thurman asks him why he did not give him the remaining $5,000. He gives, as a reason, that "it was not accessible," and that "he wanted *to see Page again.*" But why want to see Page again? Page has told him to send the money by York, and he had given York $2,000, but thought it prudent to reserve the remaining $5,000 until he could see Page. Confidence is a plant of slow growth, and perhaps it is unreasonable to expect the Senator to have more than $2,000 worth of that commodity in York, "until he could see Page the next morning." But if he was to see Page the next morning, why give York the first $2,000? This being a financial conundrum it might be well to note that an application in due form would

have to be made to the Comptroller of the Currency for the establishment of a national bank; that certain preliminary steps had to be taken; that at least five directors had to be named; that the minimum stock of a national bank is $50,000, and some arrangement had to be made to that effect. All these things are obvious and not yet mentioned. Another phase of this financial problem is characteristic. Why did not Mr. Pomeroy get a draft payable to the order of his friend, Page, from cashier Borland? Would not this have been better than to send seven packages of $1,000 each by York to the Independence banker? Another question: Pomeroy states that this $7,000 belongs to Page; that it is Page's money. We do express the charitable hope that through the intervention of a Kansas jury Mr. Page, banker at Independence, will attempt to establish his claim to this money. The result of that attempt may furnish Mr. Page some slight remuneration for his vast expenditure in the Kansas senatorial contest of 1873. Would that $7,000 satisfy him? An action might be instituted at the expiration of the forty days by Pomeroy against Page to recover the loan of $7,000. In such an event Page might be induced to think that York was a respectable man and a credible witness.

The sworn statements of York, W. Simpson, and Rohrabacher fasten guilt on Pomeroy. The evidence of Bacon, Bond, O'Driscoll, and Matheny fastens offers of money and knowledge of bribes on the confidential friends and advisers of the Senator. Can it be possible that all the propositions were made and all this money offered to procure the election of Pomeroy, and he not know it? These witnesses, at least some of them, say that they could not afford to pay money to members to aid the election of Pomeroy; at the same time they deny that they were authorized to pay by Pomeroy. Is a class of men who come upon the stand and admit that they offered money to buy votes entitled to a degree of credibility that would warrant this committee in finding as a fact that what they assert is true?

Their assertion that Pomeroy knew nothing of this is neither probable nor reasonable.

First, consider York's statements and all the attending circumstances. He was nominated and elected by a constituency opposed to the re-election of Pomeroy, and in his public addresses, during the canvass and before the election, he made repeated promises to vote against Pomeroy. He attended all the anti-Pomeroy meetings and was the secretary, and was also one of the most active leaders and managers, of the anti-Pomeroy forces, and made public speeches at the various meetings of the members of the legislature that were held in opposition to the re-election of Pomeroy. What possible difference does it make that, as the day of election approached, York sought Pomeroy, or Pomeroy sought York? They had an interview: the result of that interview was the payment *of money* by Pomeroy to York, in consideration of the promise made him by York *that he would vote for him.* Criticise, if you please, the motive of York, the fact that Pomeroy paid him money for his vote still remains to be explained. No matter what motive actuated York, if Pomeroy had not been corrupt, no "plan," "plot," or "conspiracy" would have resulted in his political death and public disgrace.

A Senator of the United States seeks to extend a lengthened lease of political power and official position by the use of money. Day by day a majority in opposition to his pretensions is reduced by corrupt appliances; a darkened room is chosen, within whose walls the candi-

date seeks to debauch one of the most trusted leaders of the opposition; the intended victim of senatorial debauchery pockets the bribe-money, and at the proper time and place publicly exposes the corruptionist. And yet the man who exposes the villainy is denounced as a Judas, while he who attempts to defile is the sympathetic subject of a "conspiracy." What possible motive could York have but an honest one? By silence, he could have procured money and official promotion; by exposure, he meets vituperation in our public press, censure in the council chambers of the nation, and the muttered threats of the pensioned horde of the fallen. When the Post-Office Department suspicions a thieving postmaster of larcenous propensities, they send out a decoy letter to detect the scoundrel, and yet the official perfidy of the act of detection has never been so manifest that a joint resolution has passed both Houses denouncing the governmental Judas.

The friends of Mr. Pomeroy, in their holy horror of Colonel York's deception, are never weary of applying to him the name of the disciple who betrayed our Savior. But we beg to remind the committee, and the gentlemen whose susceptibilities have suffered such a shock, that Judas accepted the money *and carried out the contract!*

The effort to shield Pomeroy from the just odium which belongs to him, by bitter denunciation of York, is worthy, perhaps, of the dirty floor of a police court, but utterly beneath the dignity of a senatorial investigation.

Does it follow that Pomeroy is honest because some men think York acted dishonorably?

Almost every witness produced by Mr. Pomeroy testified, negatively, that they did not know of the use of money. York, Bacon, Simpson, Mathews, O'Driscoll, Rohrabacher, and Bond do know, affirmatively, that money was paid and offered members of the legislature who had votes to give; know what corrupt means were used to influence their choice for Senator; while predatory political bummers, whose sole object at Topeka was to elect Pomeroy, do not know that any money was there for such a purpose. Even if we should give them the benefit of a somewhat violent but charitable presumption of the law, and assert that they were honest and truthful, yet their evidence does not establish the innocence of Pomeroy or the falsity of the charges against him.

The charge that Mr. Pomeroy has voluntarily assumed to prove to the Senate and country to be false and malicious is stated with such candor and minuteness, sincerity and detail of circumstance by York, and is so generally and specifically corroborated by the testimony of the other witnesses, as to leave no loop-hole for the guilty to escape, in the judgment of every fair and impartial mind.

Matheny's evidence furnishes a fact that strongly fortifies the statement of York. M. W. Reynolds, receiver of the land-office at Independence, stated to Matheny on Tuesday evening that York "had been bought;" "that he was ours, and would vote with us to-morrow"—meaning in the joint convention. Where did this land-officer receive the information that York was bought? Certainly not from York or any one of the "conspirators," but from Pomeroy. He alone could and would give the receiver the desired hint. One of the most remarkable phases of this transaction is that Reynolds is not here to testify to his want of knowledge. York asserts that he received the money on Monday night and on Tuesday afternoon. On Tuesday evening one of Mr. Pomeroy's friends says that York has been "bought;" and yet it is asserted that Pomeroy declared, time and time again, that he would use no money.

It is shown by the testimony of R. McBratney and F. M. Shaw, bankers, that Mr. J. Q. Page was about Mr. Pomeroy's room; that they met him there many times. Mr. Pomeroy had many opportunities to make the arrangement with him to let him have the money to help his bank, had he desired to do so.

Isaac S. Kallock's testimony is that he notified Mr. Pomeroy before going to the State-house, at least two hours before the joint convention met, that he had heard there was to be an exposure made, and that Mr. Pomeroy then assured him that he had not made use of any improper means to secure his election. If Mr. Kallock, who was one of Mr. Pomeroy's warmest supporters, believed this to be true, why did he not rise in the joint convention and defend his friend?

If Mr. Albert H. Horton, who was on the floor of the convention, and testifies that he was one of Mr. Pomeroy's confidential advisers, and that he had no reason to believe any improper means were being used to secure his election, was sincere in his belief, why did he not immediately inform Mr. Pomeroy, so he could either come or send to the convention and defend himself?

The same may be said of Thomas Murphy, D. W. Houston, D. H. Horne, John A. Martin, confidential friends of Mr. Pomeroy, all of whom were on the floor of the joint convention. Surely some of these gentlemen, if they disbelieved Colonel York's statements, could have gone to the Tefft House with the news, a distance of about three and a half blocks and only a five or ten minutes walk. But we would more particularly refer to the fact that Mr. John Q. Page, the gentleman who testifies that this money was paid to Colonel York, on his behalf, for a legitimate purpose, and also testifies that he was urging Mr. Pomeroy's re-election, was on the floor of that convention, and could easily have communicated that fact to some friend of Mr. Pomeroy. This taken in connection with the testimony of S. A. Cobb, that he met said Page soon after the joint convention, and that Page then made no reference to the money having been paid to York, on his behalf, for a business purpose, but, on the contrary, indorsed Mr. York's character and admitted the truth of his (York's) statement, shows that this whole defence is an afterthought. If Mr. Page knew of this fact, that this money had been advanced in a legitimate way, it surely was his duty at that time to have made it known and exonerated his friend Mr. Pomeroy.

Mr. Pomeroy's duty, not only to himself but to the friends who were supporting him, was equally clear that he should, without hesitation, have sent his statement to the joint convention; but he makes no reply, and two long hours elapse before the roll-call is made and not a word from him. He had fifty friends who voted for him the previous day, and of all these not one had the hardihood to cast a vote for him after Colonel York's statements.

The testimony of Mr. B. O'Driscoll, a member of the lower house, that he was approached by three different persons and offered money to vote for Mr. Pomeroy, is corroborated by the testimony of the persons referred to, to-wit, Mr. J. S. Hoke, Mr. J. P. Brown, and Mr. A. Low, all of them friends of Mr. Pomeroy and at Topeka, working in his interest.

The testimony of William Simpson, a member of the senate, that Mr. Pomeroy offered to pay the expenses of Mr. W. R. Laughlin, the delegate in Washington representing the settlers on the neutral lands, if he would vote for him, (Pomeroy,) is corroborated by the testimony of Mr. Laughlin, who swears that he wrote to Mr. Simpson, wanting him to

that not one of these witnesses should have been produced by him without testimony to connect them with Mr. Pomeroy. Indeed, he was specially warned by the committee that the evidence proposed was incompetent without such connecting testimony. With superfluous trust in his good faith, the committee allowed him to introduce his witnesses; but, as time went on, it turned out that he had no connecting proofs whatever by means of which to attach the folly of Bond, or Bacon, or Rohrabacher, or any of the rest of his crew, to Mr. Pomeroy.

Yes, he does make out one connection, and one only. He, Simpson, knows that Mr. Pomeroy promised a gift of charity to Mr. Laughlin, agent at Washington of a body of settlers on certain lands in the southern part of Kansas—$50, which Mr. Pomeroy gave to Mr. Laughlin, at Washington, after the election—and he has the impudence and fatuity to bring this forward as the single and solitary act of bribery committed by Mr. Pomeroy outside of the allegation of York.

Bravo, Mr. Attorney-General Simpson; you come here all the way from Kansas to cumber the committee with this mass of rubbish. And that is the ridiculous mouse out of the great mountain of calumny against Mr. Pomeroy which you have obtruded on the Senate of the United States!

But, meanwhile, these conspirators, with their instruments and associates, have been busy at Topeka. There they have had full swing in their general charges of bribery. The dirt they were digging in was near at hand, and they could wallow in it and stir it up at discretion. Mr. Pomeroy was not there to defend himself. Nevertheless, there as here, they have utterly failed to prove any act of bribery or to make even the least plausible show of proof.

On all this we might surely and safely conclude that the election at which Mr. Pomeroy was a candidate was absolutely pure, and without a taint or spot of corruption or bribery, so far as he or any of his friends are concerned.

Mr. Pomeroy's own declaration to this effect is confirmed, in most unequivocal terms, by a cloud of witnesses here before the committee, all of them men of unimpeachable character, members of both houses of the legislature, State and Federal officers, the earnest friends attached to his political fortunes, persons at Topeka busy at the election in behalf of other persons, his legal adviser, his private secretary; all these witnesses, who must have known if there was anything wrong, who saw what he did, heard what he said, and almost thought what he thought, all testify with one accord, positively, unequivocally, to the abstention, on the part of Mr. Pomeroy, from any illegal act, anything improper, anything indelicate even, to influence the members of the legislature.

In view of all which we think we may rightfully invite the committee to stigmatize with their censure the flagrant injustice of Mr. Simpson in presenting these false charges to the Senate, in subjecting the United States to so much expense without cause; in abusing the confidence of the committee, to bring forward witnesses incompetent, as he did or should know; and in thus bearing false witness against his neighbor, in violation of the law of man and of God.

We come now to the only serious matter of inquiry, the charge made by A. M. York.

Mr. York, a member of the senate of Kansas, came to Topeka an avowed opponent to the election of Mr. Pomeroy. For this opposition he assigns no definite reason beyond vague suspicions of objection, in the face of which he admits that, during his two full terms of service,

ARGUMENT IN DEFENSE OF SENATOR POMEROY,

Addressed to the Committee of the Senate appointed to investigate the charges against him, preferred by A. M. York and B. F. Simpson.

The committee is charged by the Senate with two distinct subjects of inquiry: the first, on the motion of Senator Pomeroy, to investigate a specific charge of bribery in the late senatorial election in the State of Kansas, made against him by A. M. York; the second, to investigate, on the petition of B. F. Simpson, a general charge of bribery and corruption in that election.

The second inquiry may be disposed of in a very few words.

Mr. Simpson, with associates—parties, by their own confession, to a political conspiracy the foulest in the annals of the country—has been the attorney-general of the State of Kansas. Two of his fellow-conspirators, York and Johnson, are members of the senate of that State. The fourth party, J. C. Horton, is one of the agents of a great railway company, whose intelligence is vaunted by his associates as superior, in matters of *this class*, to that of any other person in the State.

These persons, under the authority of the senate, have had the opportunity to rake and scrape in all the political filth which exists in the State of Kansas, in the hope, peradventure, to discover some person vile enough to come here and belie Mr. Pomeroy. Their testimony shows their familiarity with many a base person and many a vile thing in the legislature of Kansas. From the central point of Topeka, the seat of government, they could look around on all quarters in search of any desperado base enough to join them in their corrupt plot against Mr. Pomeroy. The apparent head of this conspiracy, Simpson, is himself a candidate for the Senate. These men, not content with the original conspiracy, in which Mr. York was their tool and their victim, entered into a second conspiracy of this afterthought attack on Mr. Pomeroy.

The committee have seen with their own eyes and heard with their own ears the result of this second conspiracy. The effort of Mr. Simpson has proved to be a disastrous, a contemptible, an odious failure. Under the auspices of one Rohrabacher, a burglar-convict, a person deprived of his seat in the legislature of Kansas for obtaining his election by fraudulent means, and afterward expelled from the floor of the house because of his ignominy, they bring here a number of witnesses, trashy persons like Bond and Bacon, to testify to the low gossip of Topeka at the time of the senatorial election. Not one of those witnesses alleges that he ever received money or anything else from Mr. Pomeroy as consideration for his vote. Some of them pretend that they had talks with friends of Mr. Pomeroy on the subject; but not one of them asserts that he ever received anything from such friends. And the testimony of these witnesses, if it tends to any conclusion, is that they desired to be bribed and did not succeed. On the other hand, every one of the persons by whom they pretend to have been approached flatly contradicts their averments. Indeed, in reviewing the testimony of the persons who thus accuse Mr. Pomeroy, it is difficult to decide which to admire most, their folly or their knavery. The convict Rohrabacher is a fair type of the set.

In summoning these witnesses, Mr. Simpson has shamefully abused the authority of the committee. He professes to be a lawyer; nay, God save the mark, that he has been attorney-general of Kansas, and ought to have two or three scraps of law at least in his head, enough to know

and J. C. Horton, with the co-operation of George C. Peck and George W. Crowther, all of them, as some of the testimony would indicate, oath-bound confederates to compass an act which should combine private cheating, political fraud, and moral assassination, to be perpetrated by A. M. York.

Remember, we are now dealing with the avowals, professions, and pretensions of A. M. York as to the intentions of himself and his fellow-conspirators.

To begin at the last purpose, that of cheating Mr. Pomeroy. The answers of Mr. York to questions put by Senator Alcorn are as follows:

"Q. When was it you agreed as to the disposition you would make of this money?

"A. I think this was on Monday night.

"Q. That you would appropriate it to the school-fund?

"A. Yes, sir; the State school-fund. I think it was Monday night or Monday morning. I think it was Monday.

"Q. You stated that your sole purpose was to defeat Mr. Pomeroy for the Senate. Your purpose, as I now understand you to say, was to get his money as well?

"A. Let me understand you.

"Q. For the school-fund. Did you not want to get it?

"A. If he should pay me his money, that was the disposition we had determined to make of it.

"Q. Were you after his money for the school-fund?

"A. If he offered the money we were 'after it,' you might say in that sense."

Observe, Mr. York avows a distinct purpose and plan of the conspirators to obtain money for the school-fund.

Now, there are some crimes which a gentleman may commit, such as treason, or even occasionally assassinations of vendetta or of honor; other crimes belong to natures so mean as to be beneath anger, such as common theft; but there is another class of crimes, of vulgar, low, brutish order, such as forgery, cheating, and rape, which disgust and repel. Such is the *crime* which these conspirators deliberately agreed to commit by the hand of York, a crime one degree baser than that of which Rohrabacher was convicted, for *burglary* has an element of physical courage in it, which does not appertain to this conspiracy to swindle a Senator of the United States. And these conspirators are friends of education forsooth; they must needs season their criminality with cant on that subject; they were to cheat in order to get money for the school-fund. When Vespasian exhibited to Titus the new coin obtained from the tax on *cloacæ*, he said, "My son, *non olet.*" What sort of smell would belong to a school-fund augmented by money which Mr. York should have obtained from Mr. Pomeroy by conspiracy, falsehood, and fraud!

We come now to the first purpose of this conspiracy, that of cheating Mr. Pomeroy out of an election for Senator. And in this part of the argument we are only to deal with *intentions.*

Upon this point the following avowals are made by York in answer to questions put to him by Mr. Vickers and Mr. Alcorn, members of the committee:

"Q. When you went to have the business transaction or business interview with Mr. Pomeroy, was it your purpose to offer to sell your vote, and afterward to expose it?

"A. It was my purpose if Mr. Pomeroy would offer me an opportunity of taking money to take it, and then I would expose him; that was my intent; that was my object.

"Q. The object of your visit, then, was to induce him to offer you money for your vote, which you would take, and afterward to expose him?

"A. It was rather the determination of what I would do, after I had consented or determined to visit him. * * * I did intend, when I went there, that if he offered me the opportunity, I should take the money; and that I would induce him to believe that I would support him.

"Q. Then you went there in order to win his confidence by what you would say; you went there intending to win his confidence; to cause him to repose that confidence in you which would induce him to give you money, in order that you should vote for him?

"A. I intended to deceive him.

"You sought his confidence?

"A. I simply placed myself in position to receive the confidence that he had been extending to me or seeking to place in me.

"Q. Did you not hold out the inducement to cause him to place that confidence in you ——

"A. I did; most emphatically, I did.

"Q. ——which a man dealing with a customer of this sort would be disposed to place——

"A. Yes, sir.

"Q. ——believing he was reposing trust in a man that would not betray him?

"A. Yes, sir.

"Q. You state that after that you did betray him?

"A. Yes, sir; I did."

Was a more cold-blooded avowal ever made by living man? It seemed to send a shudder through the committee-room.

We come now to the other well-defined purpose, namely to cheat the legislature out of a free choice of Senator.

In reference to a question of his own counsel, Mr. York says:

"Q. State now the exact agreement and understanding among those parties on Monday evening. State that agreement between those parties to the fullest extent.

"A. The substance of the agreement was, that if Mr. Pomeroy should offer me money at that interview I should take it, and should expose him upon the floor of the joint convention upon Wednesday; that I should keep quiet during the intermediate time."

Afterward, in response to Mr. Thurman, of the committee, York testifies as follows:

"Q. That conversation was Monday night?

"A. Yes, sir; or interview.

"Q. Was the question discussed whether you should make the disclosure in the senate of which you were a member?

"A. On Monday?

"Q. You say it was resolved that you should make the disclosure on Wednesday, the day of the joint convention under the law?

"A. Yes, sir.

"Q. But it should not be before Wednesday?

"A. No, sir.

"Q. This was Monday, and you were to see him that night?

"A. Yes, sir.

"Q. And in case you received the money that night, was it discussed between you whether it would be proper to make the disclosure when

the senate came to vote on Tuesday, or that you should refrain from making the disclosure until the joint convention met on Wednesday?

"A. My remembrance is that the decision was that night that I should make the disclosure in joint convention."

To the same effect is the statement of all the other conspirators. They were to make no disclosure at the preparatory election of Tuesday. They were to take great pains to conceal the fact; and then, by a sort of *coup de théâtre*, they were to practice a surprise on the joint convention, so as to prevent any rally of the majority in behalf of Mr. Pomeroy, or of any of any candidate other than such as should be previously agreed upon by the conspirators.

Mr. York confesses in this form:

"Q. After you had used those extravagant expressions to excite and prejudice that convention, did you not oppose any recess for the purpose of preventing the prejudice or excitement from being passed over?

"A. My object in opposing that recess was to prevent them from dictating the name of some other man in Mr. Pomeroy's interest; that was the only object I had in view in opposing that resolution."

Such were the purposes, plans, and objects of Mr. York, as professed by himself; and his fellow-conspirators confirm in substance his declarations in this respect; for neither of them has yet reached the hopeful point in a bad man's career at which he begins to be ashamed of infamy.

Animated with such inducements of deliberate and concerted falsehood, fraud, deception, and betrayal, Mr. York pretends that he received from Mr. Pomeroy, on that Monday, $7,000 as a bribe for his vote—the fact of reception resting upon his sole declaration, unsubstantiated by any other person or by any collateral fact or circumstance.

True it is that puerile parade was made by the conspirators of examining his person before he went in to see Mr. Pomeroy, to ascertain that he bore no money with him; and when he came out, to ascertain that he did have money on his person. These examinations were made so imperfectly as to be entirely worthless as evidence, if anything depended upon them. This incident, like the engagements of secrecy, only serves to show that, as in the case of other low-minded men engaged in conspiracy, these men had no faith in one another, and especially none in York. How should they? If York could go to Mr. Pomeroy with a lie in his mouth, for the purpose of deceiving, cheating, and betraying him, why should he hesitate to deceive and betray such men of inferior sort as Simpson and Johnson?

Wednesday arrives. The friends of Mr. Pomeroy have counted their numbers. They know that they have a clear and decisive majority; Mr. Pomeroy knows it; the conspirators, Simpson, Johnson, and York, know it; and aided by another conspirator, the secretary, Crowther, York prepares to make his final throw to defeat Mr. Pomeroy, and at the same time to cheat the convention out of the free choice of any other person for Senator. York rises and addresses to the convention an inflammatory speech, in which he sets forth in what manner, as he pretends, he has deceived and betrayed Mr. Pomeroy, produces the money which he alleges he has received from Mr. Pomeroy, and, in aggravation of the falsehoods contained in that transaction, he falsely declares that five or six of the members of the convention present have the money of Mr. Pomeroy burning in their pockets; and then, taking advantage of the natural astonishment and confusion which his pretended revelations produce, he and his fellow-conspirators, favored by that previous concert of arrangement, succeeded in resisting the efforts of Mr. Hutchinson and others to obtain a recess for inquiry and reflec-

tion; and thus, by reason of these successful frauds, Mr. Pomeroy failed to be elected Senator for the State of Kansas.

In view of the considerations and circumstances thus far presented, it is impossible to doubt that Mr. Pomeroy would be acquitted, if indicted for bribery, on the evidence produced by York.

1. Mr. Pomeroy had no inducement to bribe York. His election was already certain. That is proved incontrovertibly by the testimony of various persons before the committee. It was the unanimous opinion of the conspirators, confessed by York in answer to a question by his counsel, Mr. Simpson, as follows:

"Q. State when you next had a conversation on that subject and with whom; and give an outline of that conversation.

"A. I think the next time I had any conversation with any one was on Monday night, with B. F. Simpson, W. A. Johnson, and J. C. Horton, after having received my invitation to visit Mr. Pomeroy. It was the conclusion of those gentlemen there, at that time, that there was no other way of defeating Pomeroy, and that he would be elected."

In this instance, as in some others, some of the statements of York, most damaging to him, were drawn out by his counsel. In observing which, one could not but query whether Simpson is really the friend of York.

Mr. Pomeroy then had no inducement to buy the vote of Mr. York; he would not get any consideration for his money. It does not appear that Mr. York could control or influence a single vote other than his own; but, if he could, they were not needed by Mr. Pomeroy.

Then, how preposterous to suppose that York should be able to sell himself as a slave to Mr. Pomeroy? If we are to believe the things told in these investigations, we have arrived at a strange state of things. Some of the *post-bellum* amendments to the Constitution will not permit us to buy and sell black men. Is it to be endured that we are to have distinction of color against white men? An ex-lieutenant-colonel, and an actual State senator, according to his own account of himself, sells in Kansas for $7,000, cash on delivery; for Mr. York insisted on that. But how the price of slaves has risen! Seven thousand dollars for Mr. York! Why, a better man could be bought in the bagnio for tenpence! says Anastasius.

But what, in the presence of a jury, is the value of the word of a man who proclaims that he went to another to win the confidence of the latter with professions of friendship, the more easily to stab him to the heart. If, as York affirms, he uttered a series of falsehoods to Mr. Pomeroy for one purpose, why should he not utter another series of falsehoods for another purpose? At what point in the history of these transactions is he to begin to lie and cheat and at what point is he to stop? It is perfectly clear that if he thinks it proper to tell ten lies in order to accomplish a political object, it is equally competent for him to tell twenty lies, and still to have a margin of mendacity that may stretch out to the crack of doom.

But Mr. York and his friends would have us suppose that he is a self-immolated martyr in a great cause; that he lies, cheats, and betrays, actuated by high principles. Well, that is a little paradoxical, and demands consideration. As one of the witnesses has it, in substance, he is either a scoundrel or a hero. Hero? Well, that also craves consideration.

The first observation to make in this relation is that Mr. York's heroism involves unlimited privileges of uttering falsehoods. That is an element of heroism very inconvenient to deal with, when the pretended

hero, who possesses these large privileges in the line of mendacity, appears on the stand as a witness, and the point is, whether we shall or shall not believe him on his oath. Whether what he testifies belongs to the hero's mood of truth or to his mood of falsehood.

Let us admit, for the argument's sake, that Mr. York is a political fanatic, with the assumed right of perpetrating any amount of wrong for the purpose of accomplishing something which his perverted self-conceit causes him to believe is a good. The world has seen but too many of such persons. Nay, we are told that Mr. York is a church-member, and that, in planning to deceive, to cheat, and to betray Mr. Pomeroy, he proceeded prayerfully. That may be. His sallow complexion, his sunken eyes, his hollow cheeks, his somber air and manner, the act which he professes to have done, the show of martyrdom that he puts on, the intrinsic and loathsome infamy of the acts which he pretends to have done, all these things bring us at once into the contemplation of those men—and they abound in history—who set up for heroes on the stock-in-trade of the perpetration of some abominable crime. And many of these monster mock heroes were very prayerful ones. Such was Clement, who assassinated Henry III; such was Fenton, who assassinated the Duke of Buckingham. And much of this mock heroism, although without the finishing touch of prayerfulness, was manifested in the deportment of Booth, the assassin of Lincoln, and of Payne, the would-be assassin of Seward.

And the remembrance of persons of this class suggests another idea. They are of the same suspicious and credulous temperament which manifests itself in Mr. York, with the same tendency to draw extravagant consequences from totally inadequate premises. In those persons there is the same belief in the danger of assassination, of which Mr. York says so much in a part of his testimony; there is the same exaggeration, as when Mr. York says, "I did not regard this as an attack on Mr. Pomeroy alone, but as an attack on one of the most tyrannical and gigantic systems that ever crushed and bowed down any state."

Now, this whole category of persons, whether they be moral assassins, like Mr. York, or corporeal assassins, like Booth and Payne, are very pitiful heroes any way.

As to the moral assassins, the political spies, the men who worm themselves into the confidence of another in order to betray him, their pretensions to heroism are absurd and ridiculous. The heroism of lying! The heroism of cheating! The heroism of professing friendship in order to betray! Pah! All these persons belong to a vocation which Macaulay characterizes as "a vocation compared with which the life of a beggar, of a pickpocket, of a pimp, is honorable." God have mercy on her, if such is the timber of which they construct heroes in the State of Kansas!

In a word, we suppose, upon the facts and circumstances thus far discussed, a jury could not fail utterly to discredit York, and to say, in their verdict, that inasmuch as what he *professes* to have done would be an odious and atrocious falsehood, it would be much easier to believe that the profession is a falsehood, and that he never received any money from Mr. Pomeroy.

But Mr. Pomeroy is not here before a jury on a charge of bribing York; he is assisting at an investigation, which he himself invited, before a committee of the Senate of the United States. He chooses, therefore, to disclose the facts which actually occurred; which are known to other persons; which York himself well knows, but misrepresented for the purpose of defeating the election and deceiving the legislature of Kansas.

Mr. Pomeroy did deliver $7,000 to Mr. York, at the request of his fellow-townsman, Mr. Page, who desired York to go to him and receive it, and desired him to deliver it to York, to be by him conveyed to Mr. Page. Mr. Pomeroy had promised to loan this money to Mr. Page, to aid him in the establishment of a national bank at Independence, in the State of Kansas. These facts are proved by Mr. Page and other witnesses examined by the committee.

Mr. York is a very bad man, but not so bad as he pretends he is. There is a certain fanfarronade of villainy, which some men affect, which is very far from constituting heroism, although it seems to constitute the pride of York.

Mr. York did not go to Mr. Pomeroy at Topeka, offering himself for sale as a vile and contemptible slave. Mr. Pomeroy did not purchase for $7,000 a piece of chattels which would have been dear at 7,000 cents. Mr. Pomeroy did receive assurances of friendship from York on that occasion, which led him to suppose that he might trust Mr. York to convey this money to its destination, the hands of Mr. Page. Mr. Pomeroy did trust Mr. York so far, although hesitatingly, and induced only through apprehension that not to do it would imply distrust of the integrity of Mr. York. It is true that Mr. Pomeroy did not take a receipt from Mr. York, as he should have done; but in the hurry and confusion of the time, there was little opportunity to attend to mere forms between gentlemen, just as Mr. Pomeroy had received this very parcel of money from Mr. Borland, without the latter stopping to ask, or the former to give, a receipt for the money. But the circumstences of the hour and the informality of the transaction were contrivances of York to give plausibility to his intended fiction. And Mr. York, instead of having been guilty of the meanness of selling himself for a bribe, as he pretends, or the criminality of accepting a bribe, is simply guilty of a breach of trust and of falsehood, in misappropriating the money, and misrepresenting the circumstances under which it was received, in order to defame Mr. Pomeroy and defraud Mr. Page.

Will it be asked why Mr. Pomeroy did not make public the true facts at an earlier day? For many reasons. Immediately on the occurrence of the events of Wednesday, shocked, indignant, humiliated, not only by the imposture practiced on the convention, but by the facility with which the members yielded to the imposture, he explained the facts in detail to his legal adviser, and then, having no further business at Topeka, he hastened to Washington, where his official duties required his presence. Here also he immediately communicated the facts in full to counsel, and then called for investigation by the Senate. What other course could he take consistently with self-respect? Is it to be supposed that he should rush into the newspapers? What accused person would do it when threatened with prosecution? What Senator inculpated would do that when he has a right to be tried on such question by his peers? In the present case prudence was particularly commanded by the consciousness of Mr. Pomeroy that he was the victim of an atrocious and abominable conspiracy; of men who had openly avowed their purpose to stick at nothing for his defeat; who had stopped at nothing to compass it, not even fraud, falsehood, and personal infamy, and whom he reasonably supposed to be capable of any crime for the consummation of their wicked and villainous plans of malice and ambition.

Mr. Page is a banker of relative wealth for the country where he lives, the personal friend of York; and he clearly and distinctly states that he requested York to obtain for him the money from Mr. Pomeroy.

An attempt, and a very feeble one, has been made to shake the testi-

mony of Mr. Page. To this end Mr. Cobb, one of the members-elect of Congress, who busied themselves at Topeka in opposing the election of Mr. Pomeroy, is brought here to say that Mr. Page, on that Wednesday, at Topeka, had said that he believed the statements of Mr. York. Mr. Cobb was too deep in that election to remember all which might casually be said in his hearing by Mr. Page or anybody else. Mr. Page has explained what he did say in those moments of confusion and commotion; that, friend as he was of York, he was reluctant to disbelieve; but he did not fail positively to express his condemnation of the means avowedly used to entrap Mr. Pomeroy. It would have been absurd for Mr. Page, a quiet banker, to plunge into that mad scene, and charge York with thus misapplying his money to impose on the convention.

Mr. York talks glibly about assassination. Mr. Page was the man to be afraid of assassination if he had attempted then and there to baffle desperate and malignant conspirators, hot for the political destruction of Mr. Pomeroy.

In substantiation of the truth of these facts, Mr. Pomeroy appeals to the evidence. He will not, as he could, oppose his mere word to the mere word of Mr. York. He might well do that, seeing that the statement of Mr. York is incredible in itself, contrary to all the probabilities, and even possibilities, of human action, unsupported by a tittle of evidence except his own word, and that word the word of an avowed falsifier, deceiver, and betrayer. Mr. Pomeroy contradicts peremptorily the charges of York, naked assertions as they are; but he goes further, and proves their falsity, and he appeals from the calumnies of such a man to the consideration and estimation which he has the right to claim at the close of an honorable career of twelve years in the Senate of the United States.

C. CUSHING, *Counsel.*

Brief of evidence taken before the committee of the Senate appointed to investigate the charges against Senator Pomeroy preferred by A. M. York and B. F. Simpson:

Parties to the conspiracy to defeat Senator Pomeroy:

W. A. Johnson, State senator;

J. C. Horton, an agent of the Kansas Pacific Railroad Company;

B. F. Simpson, private counsel for A. M. York, and candidate for United States attorney or United States judge of the district of Kansas;

George C. Crowther, secretary of the senate;

A. M. York, State senator; and

George R. Peck.

York said, in the presence of John M. Holmes, after the senatorial election, that, "He had determined to beat Pomeroy, cost what it might, and that his exposure of Pomeroy was the result of a work of time."

Senator Johnson stated to R. W. Wright, just before the senatorial election in Topeka, that, "He (Johnson) was bound to defeat Pomeroy by any means, cost what it might."

B. F. Simpson stated to Mr. L. J. Sharp, immediately after the senatorial election, that "They had beaten the old man; that they had to do it as they had done, because it was the only way he could have been beaten. That he, (Simpson,) S. W. Eldridge, and Senator Johnson determined to set a trap for Pomeroy, to beat him. They sent for J. C. Horton, and he suggested a plan. Johnson said he had just the man to go to Pomeroy, and named York, but said he would want money. Simp-

son said they were to rely upon Eldridge for the means of carrying out their scheme, if York failed."

And also the said Simpson stated to Chester Thomas, recently in Washington, that "They had put up a job on the old man, (meaning Pomeroy,) and they had to do it in order to beat him, and that there was no other way to do it."

George C. Crowther stated to C. J. Hanks, on the morning of the joint convention at Topeka, "That Pomeroy would be defeated, and told him (Hanks) to get bets if he wanted to make money; said that he had $4,000, and would let him have the money to bet with and give him an interest in the bets." And further said, "We have a job put up on old Pom., and it is going to win."

J. C. Horton states in his evidence, "That he is an agent for the Kansas Pacific Railroad Company, and that his object at Topeka was to help defeat Mr. Pomeroy;" and stated to Mr. Kalloch, in Lawrence, prior to the senatorial election, "His desire to beat Mr. Pomeroy, and his wish to raise money for the purpose of having articles published against Mr. Pomeroy in the papers, and especially in the Lawrence Journal."

A. M. York states that "There was a pledge of secrecy between six, and recited the names of five of those mentioned, and it was agreed by these six that the statement of York should not be divulged until the meeting of the joint convention, and that one of the reasons for this was that the disclosure would then come with more force, and the attack would be irresistible."

The following questions were asked of Mr. York upon this subject, (page 33:)

"Q. That accounts, then, for the secrecy?

"A. The secrecy was for the more successful accomplishment of the object.

"Q. So as to bring on the attack at a time when his friends would not be able to resist it?

"A. It was intended to bring it on at a time when it would be effective. Most certainly it was. I have no concealment to make about the matter.

"Q. You intended, if Mr. Pomeroy's friends made an answer to this, that it should be after he was defeated for the Senate, if you could make it so?

"A. That is a very natural conclusion, if we sprang it at that time. Most certainly it was.

Also the following evidence of Mr. York:

"Q. Do you know Judge Nathan Price?

"A. I do, sir.

"Q. The senator from Doniphan County, in Kansas?

"A. I do, sir.

"Q. Was he considered by you friendly or unfriendly to Mr. Pomeroy's interests?

"A. I always regarded him as friendly to Mr. Pomeroy's interests.

"Q. Immediately or soon after your address had been delivered, let me ask you if he did not use this language: 'That Mr. Pomeroy had no opportunity of defence, and he desired in his behalf, as in that of the poorest and most obscure in the land, fair play;' and especially asked an adjournment?

"A. I really could not tell whether he said that or not. He might have said it.

"Q. Do you recollect his addressing the convention soon after yourself?

"A. I do, sir.

"Q. You say that language was not used by him?

"A. I do not say it was not used by him. It might or might not have been used by him.

"Q. State now to the committee your recollection whether, in the language Mr. Price used, he did not desire to have time for investigating these charges before voting for Senator.

"A. I cannot really say as to that. The prominent idea with me was the charge that had been made upon me in joint convention.

"Q. What charge was it?

"A. He said that——

By Mr. THURMAN:

"Q. That who had made?

"A. That Mr. Price had made. He had used some violent language toward me.

By Mr. HORTON:

"Q. State it.

"A. I do not know the words, but the idea was that I had exposed my own villainy in exposing Mr. Pomeroy's. He used some very cutting remarks, I know, at the time that absorbed my attention. As to what he did say——

"Q. Did he not use this language: 'He would not say that your action was by a preconcerted arrangement, but there was about the whole of it, and the manner of its being sprung upon the body, a dramatic aspect that looked very suspicious, and he desired, before voting, time for investigation'—in substance that language?

"A. I think that he did say that. I think, since you have read it, that it brings it to my memory that words to that effect were used.

"Q. Do you know Clinton C. Hutchinson, of Greenwood County, a member of the legislature?

"A. Yes, sir; I have seen him several times.

"Q. Did you regard him as friendly or unfriendly to Mr. Pomeroy as a candidate for the Senate?

"A. I regarded him as friendly to Mr. Pomeroy.

"Q. After Senator Price had taken his seat, let me ask you if Mr. C. C. Hutchinson in that convention did not rise and use the following language: 'That he moved that the convention take a recess until 5 o'clock, that the members of the convention might have an opportunity of investigating the charges for themselves made against Mr. Pomeroy, and to make up their minds how to vote, without such a pressure upon them.'

"A. Well, sir, I cannot say whether he did or not.

"Q. Do you recollect the motion made by him for a recess?

"A. I cannot say positively whether he made it or not. He might have made it.

"Q. Do you recollect whether any motion was made by Mr. Pomeroy's friends for a recess?

"A. Yes, sir, there was; and I do not know but Mr. Hutchinson might have made it. I know a motion was made for a recess, and I opposed it.

"Q. Let me ask if, in reply to the speeches of the friends of Mr. Pomeroy in that convention, you did not use the following language: 'That you opposed the proposition for a recess, and stated that a recess was

proposed for the purpose of allowing the friends of Mr. Pomorey to gather together and recover from the rout which you had thrown them into by your disclosures?'

"A. Well, sir, I cannot say whether I made that or not.

"Q. Or in substance?

"A. Well, the substance of what I think I said was that they wanted to name the candidate; they wanted to name one; the anti-Pomeroy party naming one, they wanted to name one, which they would do upon an adjournment. That was the idea I was opposing—the idea I intended to oppose in that convention.

"Q. About how late in the convention was it that the motion for a recess was made?

"A. I cannot tell you; it was after I had made my remarks.

"Q. About what time was that?

"A. Well, sir, I should say it was after 1 o'clock; it might not have been.

"Q, You recollect that a motion was made for a recess until 5 o'clock; that the motion was made asking a recess until five?

"A. Yes, sir.

"Q. You state now that you opposed that motion?

"A. I did, sir."

Daniel Horn testifies that in the joint convention, after Mr. York made his statement of charges against Mr. Pomeroy, "He (York) opposed a recess, (then being asked by the friends of Mr. Pomeroy, to investigate York's statements,) and said 'that the purpose and object of the exposure would be defeated if a recess was taken.'"

R. W. Wright and L. J. Sharp corroborated the evidence of Horn as to the reasons given by York in the joint convention for opposing a recess to hear from Mr. Pomeroy, and allow the members to investigate the charges.

The evidence of all the witnesses is conclusive that, but for the speech of Mr. York in the joint convention, Mr. Pomeroy would have been reelected Senator, and that no opportunity was afforded Mr. Pomeroy to make any defense to the charges of Mr. York after the statements had been made prior to the election of his successor.

The testimony shows that on Tuesday, January 28, Mr. Pomeroy received fifty votes for Senator in the separate houses, and that eight candidates were then voted for. That only sixty-six votes were necessary to elect in the joint convention.

Mr. York admits in his evidence (page 21) that he used extravagant expressions in his address in the joint convention of the legislature, and that these extravagant expressions had a tendency to excite and prejudice the convention against Mr. Pomeroy; and that afterward he opposed any recess of the joint convention before a vote for Senator was taken.

It has been shown by Mr. Sexton and other witnesses that in York's speech in the joint convention he said: "I know of several members of the legislature who now have Pomeroy's money burning in their pockets for their votes. I will not state now who they are, but will develope the facts at the proper time."

Mr. York has never explained this statement, and does not now pretend to know the name of a single member who had any money paid to him, other than his statement that concerns himself and Mr. Pomeroy, although he has had ample opportunity so to do, both in the investigation before the Kansas legislature and before your committee.

Mr. York bases his meeting with Mr. Pomeroy on Monday night, January 27, upon the statement that he was invited to Mr. Pomeroy's room by Asa Hairgrove for a "business interview." In answer to an inquiry, if Mr. Hairgrove used the words "business interview," he answered, "Yes, sir; I am confident in regard to that. In fact, I know he used that word or its equivalent."

Mr. York admits that Mr. Hairgrove is a friend of his, and resides in the same town with him; and Mr. Hairgrove testifies that he never invited York to have a "business interview" with Mr. Pomeroy or himself; but says that York said to him on Monday that he wished to have an interview with Mr. Pomeroy, and Hairgrove told York that he would see Mr. Pomeroy and arrange an interview. Saw Mr. Pomeroy then, and he consented to see York. After seeing Pomeroy, he could not find York immediately; and the next time that he and York met, York said that he had already seen Pomeroy.

IMPROBABILITY OF YORK'S STATEMENTS.

York states that Mr. Pomeroy agreed to pay him $8,000 for his vote, and did pay him $7,000 of it upon his (York's) promise that he could not vote for him Tuesday, but would vote for him Wednesday, with the privilege of reconsideration or the privilege of reconsidering. No other pledge or promise, he claims, was asked or demanded of him by Mr. Pomeroy.

His testimony is as follows:

"Q. After that general conversation for half an hour what occurred?

"A. I remarked to Mr. Pomeroy to the effect that I did not see any object in my remaining any longer; that I could not take the same view of the senatorial question that he did; that I had been invited there to have a business interview with him, and asked him if I was correct. He said I was correct, but he stated that he could not offer any money until I had said I would vote for him; that he was too old a politician to bribe votes, but said that if I would say that I would vote for him I would then be one of his friends and he could then aid me, or that it would be right—perfectly right—to aid me the same as he would any other of his friends. I told him I could not vote for him upon Tuesday; that I must vote for Mr. Lowe upon Tuesday. He then said, 'Well, say you will vote for me upon Wednesday.' I thought of it a moment, and then said, 'I will vote for you on Wednesday, with the privilege of reconsidering it,' or 'the privilege of reconsideration,' or words signifying that. Mr. Pomeroy then asked me what I wanted, and I told him it was not for me to say. He finally agreed that he would give me $8,000; that he would pay me $1,000 that night, that he would pay me $5,000 the next day, and that he would pay me $2,000 the day following. I use the term 'next day,' as meaning Tuesday, and 'the day following' as meaning Wednesday; it was really Tuesday morning then."

York wishes the committee to believe that he received a promise of $8,000 for his vote, and did actually receive $7,000. York does not claim that he could carry any votes with him or that he promised Mr. Pomeroy that he would, but does admit the great strength of Mr. Pomeroy, and that, notwithstanding the combination against Pomeroy, excepting his plan had been adopted and carried out, Pomeroy would have been elected, (page 33.)

In this connection we call the attention of the committee to the fact that no money has been shown to have been paid by Mr. Pomeroy, at Topeka, to any other member of the legislature, although ample op-

portunity has been given to the enemies of Mr. Pomeroy to establish every allegation made against him. The only evidence given by witnesses, as to the offering of any money other than that named by York, are the statements made by W. H. Bond, Frank Bacon, B. O'Driscoll, C. A. Rohrabacher, and W. Simpson.

Senator W. M. Matheny gives an interview between himself and D. S. Kelley; but says that Kelley disowned any connection with Pomeroy, and Mr. Matheny knows of no relation existing between them.

Mr. Bond names John J. Murphy and A. H. Horton as the parties who improperly approached him; but says that Mr. Pomeroy never alluded to money, or never offered any consideration for his vote, either directly or indirectly, (page 57.)

John J. Murphy states that he never offered Mr. Bond money, and had no authority from Mr. Pomeroy, or his friends, to offer or pay money to any member of the legislature.

A. H. Horton states that he never offered or promised Mr. Bond any money for his vote at any time, and denies the purported conversation which Bond says took place on Wednesday morning, January 29. Mr. Bond is shown by Colonel D. W. Houston, General McDonald, and Colonel Joyce, to have said, before the 29th, that as soon as Dr. Logan was out of the way as a candidate for Senator, he would vote for Mr. Pomeroy, and these statements were communicated to Mr. Horton before Wednesday, the 29th. Colonel Houston states positively that on Tuesday, the 28th, after the first vote for Senator, Mr. Bond told him that, now Dr. Logan was out of the way, he should support Mr. Pomeroy; and Mr. Houston communicated this statement to Mr. Horton on Tuesday afternoon. On Wednesday morning, before the interview between Bond and Horton, Bond told Houston that he had not signed a paper to vote for Mr. Ingalls, and that no Leavenworth man could vote for Mr. Ingalls.

C. J. Hanks, testifies that on the evening before the fall election of 1872 he sent a dispatch to Major Crowell, at Atchison, at the instance of Bond, for aid from Pomeroy's friends, and that the dispatch was never answered. Bond is contradicted by D. W. Houston, General McDonald, Colonel Joyce, and others, as to material facts in his evidence, and John J. Murphy fully shows that Bond misunderstood his conversation with him.

Frank Bacon admits that he has no knowledge of Mr. Pomeroy, offering money to him, or of authorizing anybody to do it, and says he has no knowledge that Mr. Pomeroy, directly or indirectly, paid one dollar to any member of the Kansas legislature, (page 50.)

Mr. Kalloch testifies that, but for the statement of Mr. York in the joint convention, Mr. Pomeroy would have been elected, and that Bacon told him at Topeka, since the senatorial election, that he was friendly to Mr. Pomeroy and did not know of his using any improper means to secure his re-election.

The evidence shows that Bacon offered to sell him his vote for $2,000, and that Horton indignantly refused to consider the offer, and told Bacon that Pomeroy had votes enough to elect him then, and Bacon admits that Horton told him that Pomeroy had votes enough to elect him.

Bacon and Horton both state that they never had but one interview, and that they never met but once to know each other before this investigation at Washington commenced.

Bacon says that one C. A. Rohrabacher brought Mr. Horton to the

room at the interview, and Rohrabacher says that he understood, from Bacon, that he wanted to sell his vote.

B. O'Driscoll testifies that he has personally no knowledge that Mr. Pomeroy, directly or indirectly, attempted to secure his vote by improper means; but claims he was approached improperly by Asa Lowe, David Payne, J. S. Hoke, and J. P. Brown. Each of the last-named parties testify that they had no authority from Mr. Pomeroy to offer or pay to Mr. O'Driscoll, or any member of the legislature, any money or other consideration for votes; and state that they never received a dollar of money from Mr. Pomeroy to use for any purpose. Their evidence differs materially from the statements of Mr. O'Driscoll, and shows that, if money was mentioned, the same was done to find out whether O'Driscoll was mercenary in his action.

W. Simpson testifies that Mr. Pomeroy agreed to help sustain Laughlin, a delegate of the settlers on the neutral lands in Kansas, at Washington, or take him off their hands, if he (Simpson) would vote for Mr. Pomeroy. Mr. Simpson admits that he called upon Mr. Pomeroy frequently, and that his interviews were at his own (Simpson's) solicitation.

In answer to this, Mr. Pomeroy states on oath, that "Senator Simpson, from the neutral lands, often spoke to me of the condition of the settlers there, and as often I spoke of my desire to relieve them, not only by the passage of the bill pending in the Senate, but by every means in my power. When he spoke of letters he had received from Mr. Laughlin, stating that his means of support in Washington had become reduced to 'two dollars and fifty cents,' and they had no means of continuing him here save voluntary contributions, I told him I was a friend of those settlers, and would, in any event, contribute to his support. And soon after reaching Washington I met Mr. Laughlin, and, although his friends did not support me, and did not promise me any support. still I did what I said I would, and gave him, as he testified, $50; and hence it is certain my contribution had no relation to any man's vote who represented these people, for I never had even the promise of a vote, or expected a vote, from that locality."

Mr. Laughlin testifies, also, in explanation of this matter, that Mr. Pomeroy, *since the senatorial election*, did contribute toward the sustaining of him at Washington the sum of $50.

C. A. Rohrabacher states that Mr. Pomeroy told him to hand Mr. W. B. Davis two or three hundred dollars for his expenses. Admits that he had no money himself to pay Davis, and that Mr. Pomeroy never gave him any money to pay Davis, and that he never made any proposition to Davis. Said Rohrabacher also states that A. H. Horton told him to offer Bacon $2,000, on the floor of the joint convention, to vote for Pomeroy. But the said Rohrabacher admits that he has been convicted of burglary in Iowa; that he was ousted from the legislature of Kansas, and the evidence shows that he was ousted by the friends of Mr. Pomeroy; that his contestant voted for Mr. Pomeroy at the first vote; that he wrote the following dispatch, letter, and statement:

"TOPEKA, KANSAS, *February* 11, 1873.

"Hon. S. C. POMEROY, *Washington, D. C.*:

"You had better have me summoned to Washington.

"C. A. ROHRABACHER."

"CAPITOL HOUSE, TOPEKA, KANSAS,
"*February* 9, 1873.

"DEAR SIR: Learning, by the morning paper, that you will ask to have a committee appointed by the United States Senate to investigate the charges brought against you, I write to say it is of importance that I be summoned before that committee, I having evidence that will prove the conspiracy, and show they (the enemy) were ready to override the law for the purpose of accomplishing their end.

"I start to-morrow for Shelbina, Mo., to look up York's antecedents. Please address me there.

"I am, very truly and hopefully, yours,
"C. A. ROHRABACHER.

"Hon. S. C. POMEROY, *Washington, D. C.*

"I am just informed by D. L. Payné that I will soon be called before the committee. It is not best that I should be called. I want $50 for expenses, so I can get away."

Mr. Rohrabacher further testified that Mr. Pomeroy refused to answer his dispatches or letters, and that he was subpœnaed at the instance of the counsel of Mr. York to come to Washington.

The testimony offered contradicts the statement of Rohrabacher as to the offer of money to Bacon in the joint convention.

In answer to the various charges, Mr. Pomeroy's denial upon oath is as follows:

"I submit herewith a true statement of the facts as they relate to my own action in the case of bribery and corruption now pending before this committee.

"It is a gratification to me that all the material facts are well established by competent testimony, so that very little is at issue upon my own individual statement.

"And first, I deny that I gave at any time authority or permission to any man to use any money or other valuable thing to control or influence improperly the vote of any member of the legislature in the State of Kansas, and specially deny that I ever gave such authority to the gentlemen named or designated by the witnesses upon the trial, to wit: Messrs. A. H. Horton, C. A. Rohrabacher, J. S. Hoke, J. P. Brown, J. J. Murphy, A. Lowe, or to either of them; and secondly, that while I never delegated such authority to others, I positively never exercised it in any instance myself.

"Senator Simpson, from the neutral lands, often spoke to me of the condition of the settlers there, and as often I spoke of my desire to relieve them, not only by the passage of the bill pending in the Senate, but by every means in my power. When he spoke of letters he had received from Mr. Laughlin, stating that his means of support in Washington had become reduced to 'two dollars and fifty cents,' and they had no means of continuing him here save voluntary contributions, I told him I was a friend of those settlers, and would, in any event, contribute to his support; and soon after reaching Washington I met Mr. Laughlin, and although his friends did not support me, and did not promise me any support, still I did what I said I would, and gave him, as he testified, $50; and hence it is certain that my contribution had no relation to any man's vote who represented these people, for I never had even the promise of a vote, or expected a vote, from that locality.

"And if one well-established fact of bribery, outside of the charge of

Mr. York, has been proved by witnesses testifying either here or at Topeka, (where I have not pretended to have a man to defend or represent me,) I do not know it, and do not believe it.

"And now, as to the charge of Mr. York and his associate conspirators, I will say the true facts have already been stated by witnesses, and the transaction already seems to be a purely business one, having no relation whatever to his vote, which on several occasions I had learned of his pledging to me.

"About the last of the week before the Tuesday set for the first ballot, Mr. T. B. Eldridge, W. M. Reynolds, Mr. DeLong, and others, all from his county, assured me, with more or less positiveness, of York's support.

"But some days before I learned that, I had, after much deliberation, agreed to aid Mr. J. Q. Page and associates to start a national bank at Independence, where Page had a private bank; and, having satisfied myself of his ability, capacity, and fitness for the management of such an institution, I agreed to furnish him with money sufficient, when put with his $25,000, to make a sum sufficient to purchase thirty United States bonds of the denomination of $1,000 each.

"Mr. Page urged and was anxious to procure the money before he left Topeka; but I told him it was inconvenient for me to furnish over $2,000 then, but I would get it soon, and he might depend upon it and make his arrangements accordingly. At this time I met at the Tefft House Mr. W. P. Borland, of the Second National Bank of Leavenworth, who inquired of me if I should not want some currency before leaving Topeka, as he thought, from appearances, my hotel-bill would be large. At first I told him no. The next day I met him, and said I should like to get $5,000 for forty or sixty days, as I had agreed to help a friend organize a national bank, and he would refund it as soon as he got his currency from the Government. He then brought me a package, said to contain $5,000, which I never opened or counted, or even gave a note or receipt for at the time, and I put the same in my valise.

"On Monday night, the 27th, Mr. York came to my room, having seen me or having sent me word several times that he would do so, and at once began to report what had been going on at the anti-Pomeroy caucus, and I heard him through. Before leaving he spoke of the favor I had granted his friend Page, and said Page had requested him to get the money and forward it to him at Independence, and that he (York) would leave soon after the election for home.

"I told him that I was not prepared at that time to furnish it, although I had promised it to Page before I left the city. Mr. York said that, perhaps, I had no confidence in him. I assured him of my confidence, and told him that I could furnish $2,000 at that time, and thought I should be able to furnish $5,000 more the next day. The amount necessary, I had calculated, would be from $5,000 to $8,000 to pay for the bonds and their premium, in addition to the $25,000 Mr. Page and his associates could furnish.

"I then paid him the first installment of $2,000, and the next day I paid the package of $5,000, just as I had received the same from Mr. Borland, and neither gave Mr. Borland nor took a receipt. But during that day I had sent Mr. Knight at one time, and Mr. Samuel Pomeroy at another time, to find Mr. Page, if he had not left the city, to inform him of the whole transaction. But these gentlemen both returned, saying that they were unable to find Mr. Page; and I rested in the belief that the transaction was all right, until I heard of the misstatement of the facts by Mr. York upon the floor of the joint convention. I then denounced it as a conspiracy, a plot, and told my counsel here, Judge

Horton, the whole story, and within a few days left Kansas for Washington.

"This, in brief, is the history of that charge of bribery for which I asked of the Senate a committee to investigate; and this one act, (the transaction with Page and York,) I now solemnly declare, had no reference whatever to the vote of York, and was made and executed entirely independent of it.

"I make this statement upon my honor as a Senator and upon my oath; and I further especially deny, as I stated in the Senate when I demanded this investigation, that I ever entered into any contract or agreement, directly or indirectly, with any man, a member of the Kansas legislature or not, for a vote in my favor, or that I ever, directly or indirectly, paid, or promised to pay, any individual one dollar, or any other sum, for his vote for me in the late senatorial election in Kansas."

John Q. Page testifies, "That he was at Topeka in the interest of Senator Pomeroy during the senatorial election; that he lives at Independence, Kansas, and was an intimate friend of A. M. York; that he (Page) is a banker, and has been engaged in the banking business two years; that he brought to Topeka a petition of over four hundred names, instructing the delegation from his county, including Mr. York, to vote for Mr. Pomeroy; had frequent conversations with Mr. Pomeroy concerning the starting of a national bank at Independence, Kansas, by himself and associates; he himself is pecuniarily responsible, and could raise about $25,000; Pomeroy said that it would require $50,000, but that witness could get $31,000 worth of bonds and pay the balance in installments; witness told Pomeroy that he could raise $25,000, but must have help to raise the balance; Pomeroy said he had helped other young men in Kansas, and would help him; finally Pomeroy agreed to let him have money; Pomeroy said that he expected to have money before the election, and would let him have it; on Monday, the 27th instant, witness went to Pomeroy and told him that he was going home; Pomeroy said that if he got the money, he would send it to him by Bell or York; on the same day witness told York that it was probable that Mr. Pomeroy would hand him (York) a package of money for him; and if so, he wished he would bring it to him.

"I also told Mr. Hairgrove that I was going home on Monday the 27th, but was afterward persuaded to stay. Did not stop at the same hotel with Mr. Pomeroy, but stopped at the Capitol House, and did not see Mr. Pomeroy after I told him, on Monday, the 27th, that I was going home, and for him to send the money to me by Mr. York or Bell, until after the joint convention, and then did not see him to speak to him. After the joint convention there was much excitement, and I did not wish to get in trouble about the money; I did not want to be charged with it if I was going to lose it."

Asa Hairgrove testified, "That he was assessor at Independence, and that Mr. Page gave in, last year, as owning $25,000 of personal property, and five or six thousand dollars of real estate. Mr. Page is one of the wealthiest men at Independence, and is considered reliable and trustworthy, and has been a banker there for the past two years."

Mr. McBratney, of a national bank at Junction City, testifies to being introduced to Mr. J. Q. Page at Topeka, in Mr. Pomeroy's room, as a person about to start a national bank at Independence, Kansas.

F. M. Shaw, of the Paola National Bank, testifies that he was present at one interview between Senator Pomeroy and John Q. Page, in which there was a conversation about Mr. Page starting a national bank at

Independence, and the amount of money needed to organize a national bank of $50,000 capital. Heard Mr. Pomeroy tell Mr. Page, that he thought he could get currency for him to start a national bank, as two of the banks in Kansas, to which currency has been allotted, had declined taking the same.

Rev. Mr. Legate testifies that he is a clerk of Mr. Pomeroy's committee in the senate, and was present at Topeka during the late senatorial election; that he heard portions of the conversation between Mr. Pomeroy and Mr. Page concerning starting a national bank at Independence, Kansas.

P. B. Maxson testifies that Mr. Pomeroy inquired of him as to the standing and pecuniary responsibility of John Q. Page prior to January 27, and that he told Mr. Pomeroy that he was responsible and a trustworthy person.

George T. Anthony testifies that up to the senatorial election he was the editor of the Kansas Farmer, a non-political paper, and is the United States collector of Kansas; was appointed by Johnson, on recommendation of Senator Ross, and still holds his office; that Mr. Pomeroy never attempted to influence the appointments of his deputies, and his deputy at Atchison, Mr. B. B. Gale, was a bitter opponent of Mr. Pomeroy's re-election; exchanged with all the papers in the State, and knows that the very large majority of the Republican papers strongly favored the return of Mr. Pomeroy to the Senate in the late senatorial election; three-fifths of those papers were either for Mr. Pomeroy as their first or second choice for Senator; about one hundred papers are published in Kansas, and not over ten strongly opposed Mr. Pomeroy's return to the Senate.

Thomas Murphy, George T. Anthony, John A. Martin, Rev. Mr. Legate, and all the witnesses having any confidential relations with Mr. Pomeroy during the senatorial election, and with him at Topeka, testify that they have no knowledge that Mr. Pomeroy, directly or indirectly, used any money or other consideration to influence the vote of any member of the legislature; and all the witnesses introduced by Mr. Pomeroy state positively that if he was returned to the Senate it must be without the use of any money or any other corrupt means.

A. H. Horton, counsel for Mr. Pomeroy, testifies that he was at Topeka during the entire senatorial election, and that he was at the joint convention of the legislature on the 29th of January, and that he remained there until a motion to take a recess was voted down; he then went to Pomeroy's room, told him what had occurred, and asked him what it meant; Pomeroy said that he had done nothing wrong, and that he would explain it all to the satisfaction of his friends; he then told him substantially what Mr. Page had told on his examination; some of Pomeroy's friends wanted him to deny having given York the money, saying that no one would believe York, and that if he denied having given him the money, that would be the end of it; but Pomeroy said that he would say nothing but the truth, and then related to witness his transaction with Page and York, as Senator Pomeroy has stated it in his evidence before the committee.

CALEB CUSHING,
ALBERT H. HORTON,
Of Counsel.

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43D CONGRESS, Special Session. } SENATE. { REPORT No. 1.

IN THE SENATE OF THE UNITED STATES.

MARCH 25, 1873.—Ordered to be printed.

Mr. MORTON, from the Committee on Privileges and Elections, submitted the following

REPORT:

The Committee on Privileges and Elections, to whom was referred the memorial of thirty-seven members of the legislature of Missouri in regard to the election of Lewis V. Bogy to the Senate of the United States from that State, have had the same under consideration and submit the following report:

The memorial sets forth that the recent examination by a committee appointed by the house of representatives of the legislature of Missouri, touching the corrupt use of money in the election of Mr. Bogy, was imperfect; that it was not full and fair, and in the opinion of the memorialists, if the investigation had been conducted with more vigor and with a purpose of revealing the real facts of the case, other and more important evidence would have been produced showing that there was corruption in Mr. Bogy's election.

The memorial, however, does not state what additional facts can be proven, nor indicate with any certainty the character of the new evidence that may be produced.

The committee understand that the only duty which they have upon this reference is to report to the Senate whether the memorial presents such facts as would justify the Senate in instituting an examination in regard to the election of Mr. Bogy, and are of the opinion that it does not. Such a proceeding is of a grave character, and should not be set on foot without such a statement of the evidence that could probably be produced as would appear to make it the duty of the Senate to proceed to an investigation.

The evidence taken by the committee of the legislature of Missouri also accompanies the memorial, and has been examined by the committee. It is not the province of the committee, upon this reference, to inquire whether the judgment pronounced by the house of representatives of the Missouri legislature upon this evidence was correct; but they express the opinion that the evidence is not of a character to require of the Senate an investigation.

The committee, therefore, ask to be discharged from the further consideration of the memorial and the evidence touching the election of Lewis V. Bogy to the Senate of the United States.

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